Exclusive Minilateralism: An Emerging Discourse within International Climate Change Governance?

Over the past five years there have been a series of significant international climate change agreements involving elite state actors only. The Asia-Pacific Partnership on Clean Development and Climate (APP), APEC Sydney Leaders Declaration of 2007 and US Major Economies Meetings (MEM) of 2007-08 all display a shift towards a model of international climate change governance determined by a small group of economically powerful states, to the exclusion of less powerful states and civil society. The recent UNFCCC COP 15 meeting in Copenhagen, Denmark ultimately produced a very modest outcome negotiated largely by a small group of key countries. The result from Copenhagen has strengthened calls for international climate governance to be pared down to a smaller decision making forum of 'key' countries only. This paper argues the above developments embody a discourse of 'exclusive minilateralism' that represents a significant discursive challenge to the multilateral discourse that has been the basis of international climate change governance since the inception of United Nations climate regime in 1992. The exclusive minilateral discourse contests the established inter-subjective meaning of the process of international climate governance by promoting more opaque state-based negotiations and power-based outcomes that will allegedly provide greater effectiveness in reducing global greenhouse gas emissions. A continued strengthening of the exclusive minilateralist discourse will provide a significant challenge to the cosmopolitan democratic design of the UNFCCC and also to the deliberative potential of wider notions of discursive democracy in international climate change governance.

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Introduction

This paper explores an important recent development in the process of international climate change governance. That development is the formation of a number of selective state-based forums for dialogue and/or decision-making on climate change outside the established institutional structure of the United Nations Framework Convention on Climate Change (UNFCCC). A number of these selective state-based climate forums were instigated by the United States and Australia, the two developed countries under Annex 1 of the UNFCCC that for the most part of the last decade remained opposed to the binding emission reduction targets and differentiated emission reduction obligations of the Kyoto Protocol.[1] The Asia Pacific Partnership on Clean Development and Climate (APP), the APEC Sydney Leaders Declaration of 2007 (APEC Sydney Declaration) and the US Major Economies Meetings (MEM) of 2007-08 were all instigated and/or heavily supported by the US and Australia. A common thread to these selective state-based climate change forums is a willingness to allow important decision making on climate change to be devolved to a small group of key state actors with little or no input from civil society groups. This paper seeks to analyse this recent development in international climate governance in terms of its fidelity to democratic governance principles.

The first section of this paper outlines the interdisciplinary research design of the paper that draws on the disciplines of international law (IL) and critical constructivist international relations (IR) theory. This section also outlines the concept of 'discourse' that is later relied on to analyse the emergence of these selective state-based forums and the contestation they offer to existing inter-subjective meaning on the process for international governance of climate change. The second section outlines the two key theoretical traditions of democratic thinking, cosmopolitan and deliberative, that are later used in analysis of these selective state-based climate forums. The third section of the paper builds on this by introducing the concept of 'minilateralism' that has been developed by a number of academic authors and policy commentators to support a shift towards more exclusive modes of governance of international problems. The fourth

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[1] Australia ratified the Kyoto Protocol upon the Rudd Labor Government coming to power in November 2007.

section briefly outlines the process of the UN climate regime and three selective state-based climate change forums that have arisen and been promoted in particular by the US and Australia over the past five years. The final section of the paper discusses these selective state-based climate change forums in terms of a discourse of 'exclusive minilateralism' that is contesting the multilateral discourse (and inter-subjective meaning) on the processes of climate change governance. The paper concludes with some observations on the risks which the exclusive multilateralist discourse poses for cosmopolitan and discursive democracy in the international climate governance.

The following section sets out the research design and theoretical underpinnings of this paper.

1. Research Design

Critical Constructivist International Relation Theory

Constructivism is an interpretivist IR theory that focuses upon the "role of ideas, norms, knowledge, culture, and arguments in politics, stressing in particular the role of collectively held 'intersubjective' ideas and understanding on social life".[2] Unlike the three more established IR theories of realism, institutionalism and liberalism, constructivists:

> ...reject the notion that states or other actors have objectively determined interests that they can pursue by selecting strategies and designing effective institutions. Rather, international actors operate within a social context of shared subjective understandings and norms, which constitute their identities and roles and define appropriate forms of conduct... Most specific norms and understandings are generated, disseminated, and internalised through the efforts and discourse of diverse actors...In the constructivist view, even as states and other actors create norms and institutions to further their interests and values, those norms and institutions are redefining those interests and values, perhaps even the identities of the actors themselves.[3]

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[2] Martha Finnemore and Kathryn Sikkink, 2001, 'The Constructivist Research Program in International Relations and Comparative Politics', *Annual Review of Political Science*, 4, p. 392
[3] Kenneth W. Abbott, 2004, 'International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts', *American Journal of International Law*, 93, p.367

The constructivist emphasis on ideas, which are often referred to as 'norms' in this literature,[4] is an obvious common starting point for interdisciplinary research designs incorporating IL and constructivist IR theory. The constructivist IR tradition is divided into two broad strands. Firstly, *conventional constructivism*, seeks to trace the causal impact of identities and norms on state behaviour.[5] The conventional constructivist approach is concerned with identifying the causative effect of particular ideas or norms on state behaviour during a specific event or series of events in the international system.[6] Conventional constructivist work adopts a research design more closely aligned with the positivist social science paradigm in formulating hypotheses regarding the causal influence of norms on past state behaviour and subjecting them to empirical investigation.[7] However, the second strand of constructivist work, *critical constructivism,* is less wedded to the positivist paradigm. Critical constructivism is more concerned with "uncovering the power relations that underpin and are reproduced by social relations, including knowledge-creating and knowledge-laden relations"[8] that privilege some actors over others. Finnemore and Sikkink describe critical constructivism as:

> *Work of "critical" constructivism has intellectual roots in critical social theory, including such figures as Anthony Giddens, Jurgen Habermas, and Michel Foucault. Although it shares the core features of constructivism identified above, critical constructivism adds a belief that constructions of reality reflect, enact, and reify relations of power. Critical constructivists believe that certain powerful groups play a privileged role in the process of social construction. The task of the critical scholar is both to unmask these ideational structures of domination and to facilitate the imagining of alternative worlds. Critical constructivists thus see a weaker autonomous role for ideas than do other constructivists because ideas are viewed as more tightly linked to relations of material power.[9]*

Critical constructivist IR theory is thus concerned with how ideas are used as an expression of power to shape the inter-subjective meaning of international phenomena

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[4] David Armstrong, Theo Farrell and Helene Lambert, 2007, *International Law and International Relations*, Cambridge University Press, p.97.
[5] *Ibid,* p.100. For a prominent example of conventional constructivist work see: Alexander Wendt, 1999, *A Social Theory of International Politics*, Cambridge University Press.
[6] Armstrong et al., *supra* note 4, p.100
[7] Mary E. Pettenger, 2007, *The Social Construction of Climate Change: Power, Knowledge, Norms, Discourses*, Ashgate, United States, pp. 9-10
[8] Armstrong et al., *supra* note 4, p.100
[9] Finnemore and Sikkink, *supra* note 2, p.398

and the interests of the actors concerned. Critical constructivist IR theory usefully complements international law research in providing a theoretical framework for analysis of the political context in which international law and institutions are formed. Unlike conventional constructivism, the critical IR approach does not seek to test the effect of international law as a causal mechanism on particular instances of state behaviour.[10] Rather, critical constructivism provides understanding of the power-laden web of inter-subjective meaning embodied in international law and institutions. Critical constructivist IR theory also offers a theoretical framework for analysing how such inter-subjective meaning is contested and subject to change over time. Critical constructivism's 'critical' (i.e. emancipatory) potential is in providing understanding of the power-laden web of inter-subjective meaning that constitutes, and is constituted by, international law and institutions. This understanding thereby opens up the possibility of international collective self-reflection for change. As Neufeld explains:

> *...it is clear how interpretative approaches offer support for notions of progressive and emancipatory change in the global order. The intersubjective meanings which constitute the global order are themselves the product of an ongoing process of self-definition and self reflection, they are, then like all practices which instantiate them, open to change.[11]*

Current international law, institutions and practices might therefore be viewed not as a natural 'given' reality, impervious to substantial change, but rather one of many possible socially constructed orders of inter-subjective meaning available to the international community.[12] A critical constructivist understanding of international affairs thus opens the possibility for understanding discursive contestation over current international law, institutions and practices.[13]

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[10] Even more adventurous sociological analysis within international legal scholarship has not been able to prove international law as a decisive causal mechanism in the behaviour of states, see Abram Chayes, 1974, *The Cuban Missile Crisis*, Oxford University Press, London.

[11] Mark Neufeld, 1993, 'Interpretation and the Science of International Relations', *Review of International Studies*, 19(1), p.58

[12] Ibid, p.59

[13] John S. Dryzek, 2006, *Deliberative Global Politics: Discourse and Democracy in a Divided World*, Polity Press.

Interdisciplinarity: Critical Constructivist IR Theory and International Law

Despite the areas of common ground between the theoretical frameworks of critical constructivist IR theory and international legal analysis there have been only limited attempts to expressly specifically link the two in research design. The most substantial exploration of the use of critical constructivist IR theory in analysis of international law and institutions comes from the work of Australian IR theorists Shirley Scott[14] and John Dryzek.[15] Scott has developed a theory to explore the ideational content of international agreements and their political context within the power-political struggles of international relations.[16] For Scott, this involves looking closely at the wider political circumstances in which international agreements are formed and identifying the 'cognitive structure of cooperation' implicit in the agreement.[17] Drawing on ideology theory, Scott suggests that international agreements are typically drafted to define a problem and frame solutions in accordance with an underlying set of interrelated principles known as a 'foundation ideology'.[18] The foundation ideology may only be indirectly referred to in the text of an international agreement. However, when an agreement is viewed in the wider political context of its formation, the foundation ideology provides the normative basis for the framing of the problem and inter-subjective belief on the range of available policy responses.[19]

Another prominent attempt to link critical constructivist international relations theory and international law analysis lies is in the discourse theory of Dryzek.[20] Like Scott, Dryzek's theory invites international lawyers to look beneath the text of an international agreement

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[14] Shirley V. Scott, 2004, *The Political Interpretation of Multilateral Treaties*, Martinus Nijhoff Publishers.
[15] Dryzek, *supra* note 13, John S. Dryzek, 2007, 'Paradigms and Discourses' in Daniel Bodanky, Jutta Brunee and Ellen Hey (eds) *The Oxford Handbook of International Environmental Law*, Oxford University Press, United States.
[16] Scott*, supra* note 14. See also, Shirley V. Scott, 2007, 'The Political Interpretation of Multilateral Treaties: Reconciling Text with Political Reality', *New Zealand Journal of Public International Law*, 5, pp.103-120.
[17] Scott, 2004, supra note 14, pp. 110-113
[18] The other elements of the CSC embodied in a treaty, as identified by Scott, are the *CSC Issue, Legitimation Goal, CSC Community of Interest, Foundation Ideology, CSC Myth and CSC Solution*. See, Scott 2004 *supra* note 14, pp.12-19
[19] Scott, 2004, *supra* note 14, pp.15-16
[20] John S. Dryzek, 2005, *The Politics of the Earth; Second Edition*, Oxford University Press, United States, John S. Dryzek, 2007, *supra* note 15, pp.44-62. See Dryzek, 2006, *supra* note 13, p.23 for discussion of the critical constructivist research design of his work.

to the underlying ideas and inter-subjective meanings upon which an international agreement is structured.[21] Dryzek refers to this set of underlying ideas and inter-subjective beliefs as a 'discourse', which he defines as:

> *a shared set of concepts, categories, and ideas that provides its adherents with a framework for making sense of situations, embodying judgements, assumptions, capabilities, dispositions and intentions.[22]*

Dryzek has provided a typology of the more prominent discourses operating in environmental governance[23] and international politics more generally[24] over recent decades. He suggests that discourses are social structures that both enable and constrain actions[25]. Discourse is constraining in the sense that it is constitutive of the subject dispositions and capacities of actors and is produced and reproduced by subsequent actions and interactions.[26] Discourse is also enabling in the sense that actors draw on existing discourses to "subtly affect the content and weight of discourses" within a given social structure.[27] Dryzek thus comments:

> *Discourses can embody power in that they condition norms and perceptions of actors, suppressing some interests whilst advancing others. Discourses pervade, constitute, and help explain the structure of international affairs. The power of discourses arises in their ability to structure and coordinate the actions of individuals' subject wholly or partly to them.[28]*

Dryzek argues that some discourses are 'hegemonic' in the sense that they are so ingrained in social structures that they are "not even recognised by those subject to them, but are instead treated as the natural order of things".[29] However, discourses are not static. Over time, coalitions of actors (i.e. discourse coalitions) emerge with alternate discourses that seek to contest even hegemonic discourses.[30] This contestation leads to change through either a dialectical accommodation/merging of competing discourses or the

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[21] Dryzek, 2007, *supra* note 15, p.60, uses the IT metaphor that discourses "can provide the 'software' that makes international regimes work, while more formal organizations and rules provide the 'hardware'".

[22] Dryzek, 2006, *supra* note 13.

[23] Dryzek 2005 *supra* note 20, Dyzek 2007, s*upra* note 15.

[24] Dryzek 2006, *supra* note 13.

[25] Dryzek 2006, *supra* note 13, p.24-25, Like Scott, Dryzek's approach builds on Anthony Giddens structuration theory, most fully described in: Anthony Giddens, 1984, *The Constitution of Society: Outline of the Theory of Structuration*, Polity Press, United Kingdom.

[26] Dryzek 2007, *supra* note 15, p.62

[27] Dryzek 2006, *supra* note 13, pp.24-25

[28] Dryzek 2006, *supra* note 13, p.3

[29] Dryzek 2006, *supra* note 13, p.8

[30] Dryzek 2006, *supra* note 13.

defeat of a competing discourse. Although Dryzek argues that discourses are important in understanding international affairs, he importantly points out that they cannot alone explain international social life and collective outcomes. Dryzek concedes that other factors such as material factors and non-linguistic practices are also important.[31] This paper adopts Dryzek's concept of discourse in analysing contestation over the process of international climate governance that flows from the emergence of these selective state-based forums.

The following section outlines two broad theoretical traditions on democracy that are used in analysis later in the paper.

2.   Differing Models of Democracy

Democracy is itself a contested concept. As Dryzek explains, there are two leading theoretical models of democracy at a domestic level. Firstly, *liberal democracy,* "deals only in the reconciliation and aggregation of preferences defined prior to political interaction."[32] Liberal democratic theory views democracy as a social choice mechanism which reconciles conflict by aggregating individual actor preferences that are pre-formed and hence unaffected by political interaction. Liberal democratic activity is most obviously pursued by actors strategically furthering their pre-formed interests in voting in elections to determine the make up of constitutionally entrenched institutions of the liberal state. Liberal democratic theory is thus directed towards the effectiveness and/or efficiency of the aggregative and reconciliatory functions of formal constitutionally entrenched institutions of the liberal state. The second leading theoretical model of democracy at a domestic level is *deliberative democracy.* In deliberative democracy, democratic institutions ought to be designed primarily to facilitate deliberation by political actors.[33] As Dryzek explains, deliberation is "a social process distinguished from other kinds of communication in that deliberators are amenable to changing their judgements, preferences, and views during the course of their interactions, which involve

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[31] Dryzek 2007, *supra* note 15, p.62

[32] John S, Dryzek, 2000, *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*, Oxford University Press, p.10

[33] *Ibid*, p.1

persuasion, manipulation and deception."[34] Deliberative democracy is thus concerned with the "authenticity of democracy: the degree to which democratic control is substantive rather than symbolic, and engaged in by competent citizens".[35] Institutions designed to promote deliberative democracy are thus concerned with improving the circumstances of communication and hence the capacity of actors to reflect upon and change their preferences (and ultimately voting patterns and other forms of political participation) in response to argument.

At an international level, there is no institutional equivalent to the sovereign of the domestic liberal democratic state that has the power and capacity to make, enforce and administer laws that may override the consent of an individual citizen. The various institutions of the United Nations (i.e. Security Council, General Assembly, International Court of Justice) come the closest to replication of the functions of the domestic sovereign, however, ultimately derive their authority from the ongoing consent of the nation-states involved. Despite the lack of an equivalent to the domestic sovereign, liberal and deliberative theories of democracy have again been used to analyse the democratic credentials of international institutions. The liberal democratic model of democracy has been adapted to the international sphere through the concept of *cosmopolitan democracy.* As Dryzek explains:

> *Cosmopolitan democracy favours an international system more densely populated by institutions that both secure order and are democratically accountable in direct fashion-that is, not just at one remove, through any accountability of states that take part in such arrangements....Institutions would exist at multiple levels, not necessarily subordinate to higher levels as in a federal system… The project looks forward to ultimately to an international legal system enforcing democratically determined laws, a global parliament to hold all other global institutions to account and international control of a military that would in the long run yield demilitarisation…[36]*

In its more extreme guises, the cosmopolitan democratic project advocates direct citizen election of supranational institutions that have the authority to override state sovereignty.[37] The primary focus of all variants of cosmopolitan democracy is to extend

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[34] *Ibid.*

[35] *Ibid*

[36] Dryzek 2006 *supra* note 13, p.152

[37] George Monbiot, 2004, *The Age of Consent: A Manifesto for a New World Order,* Polity Press

the aggregative, reconciliatory and accountability features of the domestic liberal democratic model into international governance structures. The underlying premise of the cosmopolitan project is that individual citizens will come to see themselves as world citizens and hence subordinate their more local identities and interests to a common global project.[38]

However, Dryzek's *discursive democracy* is a model for the pursuit of democratic ideals in international affairs that draws more particularly on the deliberative tradition of domestic democratic theory. Dryzek argues that in the international sphere, which lacks centralised authority and has more dispersed power structures, the deliberative democratic project is best pursued through a democratic design that is:

> *transnational and discursive, highlighting dispersed and competent control over the engagement of discourses in transnational public spheres, which in turn constructs or influences international outcomes in a variety of ways. Transnational democracy of this sort is not electoral democracy, and it is not sought in communicatively competent decentralised control over the content and weight of globally consequential discourses, which in turn resonates with theories of deliberative democracy stressing communicative action in the public sphere… The public sphere encompasses social movements and media communications, and can reach into corporations, states, and intergovernmental organisations. It is an informal, communicative realm that can be contrasted with the constitutional exercise of authority...[39]*

The weakness of centralised authority in the international system and recourse to principles of state sovereignty (ie sovereign independence) to avoid international obligations are no impediments to discursive democracy. The 'transnational public sphere' of civil society movements and media operations does not require a centralised source of authority or state consent in order to engage citizens and other actors in reflective, deliberative and communicative processes. As Dryzek explains, this activity in the international public sphere has a capacity to shape actor perceptions, interests and identities and the outcomes of more formal international institutional processes.[40] The formal institutions of international society in turn embody and reproduce discourses. The

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[38] Dryzek 2006, *supra* note 13, p.153.
[39] *Ibid*, p.154.
[40] Dryzek *supra* note 32, p.121-122.

discourses operating in the transnational public sphere and formal international institutions therefore operate in a mutually constitutive manner.[41]

The following section explains the concepts of 'multilateralism' and 'minilateralism' in international governance and builds links with the discussion of democratic theory above.

3. Multilateralism and Minilateralism in International Climate Governance

Multilateralism in international affairs involves "creating international bodies, agreements, and rules through negotiation on the part of the states that will be subject to the arrangements in question, who agree to be bound by the arrangements."[42] The creation of formal rule-based institutions at an international level to foster a cooperative approach to international issues lies at the heart of the multilateral project. However, this does not mean that multilateral institutions will all have high level of democratic process. The United Nations Security Council is one of the key multilateral institutions of the post-war period, yet its five permanent members (i.e. the victorious allied powers of WW2) have an individual veto power over any substantive decisions of that forum.[43] The democratisation of multilateral institutions is the essence of cosmopolitan democratic project an international level, as discussed above.[44] The UNFCCC and Kyoto Protocol are the agreements that form the central basis of the multilateral institutions of international climate governance. The UNFCCC and Kyoto institutions at a formal level have good democratic credentials in that they have near universal franchise and specifically encourage civil society participation in lobbying and educational roles with their conference of the parties (COP) meeting process. The parties to the UNFCCC have not yet formally adopted the draft Rules of Procedure for COP meetings drafted in 1996. However, the parties to the UNFCCC have in practice each year agreed to apply those rules draft Rules of Procedure to their meetings. The exception to this practice is found in draft rule 42, which deals with the voting requirements for a "matter of substance" to be

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[41] *Ibid,* p.121.
[42] Dryzek *supra* note 13, p.129
[43] Art 27(3) of the Charter of the United Nations 1945.
[44] Dryzek, *supra* note 13, p.129

decided by the COP.[45] In the absence of agreement on majority voting "there is a broad understanding in the climate change regime that substantive decisions should be adopted *by consensus*."[46] This consensus decision making rule/practice provides the formal possibility of equality of state participation in the UNFCCC COP meetings as even the smallest countries have a potential veto power over substantial decisions of the COP.[47] Similarly the role of non-governmental organisations (including environmental groups) is enshrined in the UN climate treaty process.[48] Regardless of the practical realities that prevail at particular COP meetings,[49] the UN climate meeting process is at least designed for a high level of inclusiveness, openness and transparency involving all states and interested civil society groups. Leaving aside the events of the Copenhagen COP, the UNFCCC and Kyoto Protocol has generally instantiated an inter-subjective understanding or discourse about the process of governing climate change that might be described as *inclusive multilateralism*.

However, there is a growing body of academic literature and policy commentary on international climate governance that is significantly contesting the inclusive multilateralist discourse of the UN climate regime. This work argues that greater *effectiveness* in responding to climate change might be found in institutions involving a

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[45] For draft Rule 42, see: UNFCCC, 1996, Organizational Matters: Adoption of Rules of Procedure, available online at: http://unfccc.int/resource/docs/cop2/02.pdf , p.12. Draft Rule 42 contains two draft voting rules for the COP to make decisions on "matters of substance". The first rule allows for a retreat from a consensus voting rule to a two-thirds or three-quarters majority voting rule once attempts to reach consensus are exhausted. The second requires a consensus vote except on financial matters.

[46] Yasmin Farhana and Joanna Depledge, 2004, *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures,* Cambridge University Press, p.442. Consensus is generally taken to be present if no party raises a formal objection to a particular decision, see Farhana and Depledge p.443-444

[47] However, in practice, the formal equality of the COP consensus arguably is weaker as countries only have limited resources to participate in meetings; see J. Timmons-Roberts and Bradley C. Parks, 2006, *A Climate of Injustice: Global Inequality, North-South Politics and Climate Policy*, MIT Press. Countries also participate in negotiating blocks at the COP meetings that may act to practically constrain the exercise of an individual country veto power.

[48] For example, UNFCCC Art 7(2)(l), states the COP shall: "Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; UNFCCC Art 7(6) also states 'Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object."

[49] There were criticisms from civil society groups claiming they was marginalised during the Copenhagen meeting.

smaller number of key states, particularly the large emitting countries.[50] US author David

Victor is a keen advocate of these select decision making forums on climate change:

> *In the area of international cooperation the solutions lie in efforts to create a club of a small number of important countries and craft the elements of serious cooperation. The efforts probably can't emerge within the UNFCCC process because it is too large and inclusive. Nor can it easily arise from other available forums such as the G8, because their membership is too skewed to include the dozen or so countries that must be part of an effective solution. The most interesting idea for a new institution is outgoing Canadian Prime Minister Paul Martin's concept for a forum of leaders from the twenty key countries.[51]*

This call for key decisions in climate change governance to be reduced to a select

forum has been echoed by US foreign policy Wright[52], Australian climate policy

commentator Kellow[53] and Australian Opposition climate change spokesman

Greg Hunt M.P.[54] Prominent UK sociologist Anthony Giddens has also advocated

for smaller forums of key nations to make decisions on international climate

change policy:

> *The large bulk of greenhouse gas emissions is produced by only a limited number of countries- as far as mitigation is concerned, what the majority of states do pales in significance compared to the activities of the large polluters. Only a limited number of states have the capability seriously to pioneer technological innovation relevant to climate change.....To be able to exploit this situation, we need quite a different perspective from those that emerged from Kyoto and Bali. An approach based on agreements or partnerships between individual nations, groups of countries and regions makes more sense- and could eventually strengthen more universal measures....A body representing the major polluters should be established post-haste. If we include the EU as a single entity, then 70 percent of cumulative world emissions of greenhouse gases have been produced by just six countries. They should be meeting regularly with one another.[55]*

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[50] It is beyond the scope of this paper to analyse the claims to greater effectiveness in reducing emissions made by supporters of minilateralism. For the purposes of the following discussion, it shall be shall assumed that there as significant merit in the exclusive minilateralist claims in this regard.

[51] David G Victor, 2006, 'Toward Effective International Cooperation on Climate Change: Numbers, Interests and Institutions', *Global Environmental Politics*, 6(3), p. 101

[52] Thomas Wright, 2009, 'Toward Effective Multilateralism: Why Bigger May Not Be Better', *The Washington Quarterly,* July 2009, p.167.

[53] Aynsley Kellow, 2006, 'A New Process for Negotiating Multilateral Environmental Agreements? The Asia-Pacific Partnership Beyond Kyoto', *Australian Journal of International Affairs*, 60(2), pp.287-303

[54] Greg Hunt, 2009, 'After Copenhagen: Time for the Major Economies Forum', *The Australian*, 31 December 2009, available at: **http://www.greghunt.com.au/Pages/Article.aspx?ID=1642**

[55] Anthony Giddens, 2009, *The Politics of Climate Change*, Polity Press, p.220-221.

This view is supported by leading Oxford climate change policy commentators, Steven Rayner and Gwyn Pryns:

> *Relying on an international agreement that requires the consent of all national governments inevitably results in the very lowest of common denominators. Since fewer than twenty countries account for 80% of the world's emissions and therefore have the potential to make any serious contribution to their mitigation, it would be better for diplomacy to focus upon them. In these early stages, the other 150 countries only get in the way.*[56]

US foreign policy commentator Moisés Naím has coined the expression *'minilateralism'* to explain this approach of seeking a 'magic number' of key nations with influence upon an issue to craft smaller more responsive international institutions.[57] The minilateral model for international institutions proposed by Victor, Wright, Kellow, Rayner and Pryns, Naím, Giddens and Hunt essentially excludes non-key states and civil society from the decision making forums. This discourse on international climate change policy might therefore be described as *exclusive minilateralism*.

The following section provides a brief outline of the United Nations climate regime and three leading select state-based forums for international climate change dialogue and that were formed over the past five years.

4.   The United Nations Climate Regime and its Others

UNFCCC and Kyoto Protocol

The United Nations Framework Convention on Climate Change[58] (UNFCCC) was formed in 1992 as a global agreement to provide broad principles to guide the human response to climate change. The UNFCCC was formed in response to the scientific advice provided by the UN Intergovernmental Panel on Climate Change (IPCC).[59] The

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[56] Gwyn Prins and Steve Rayner, 2007, 'The Wrong Trousers: Radically Rethinking Climate Policy', available at: http://www.lse.ac.uk/collections/mackinderProgramme/pdf/mackinder_Wrong%20Trousers.pdf p.27

[57] Moises Naim, 2009, 'Minilateralism; the Magic Number to Get Real International Action', *Foreign Policy,* July/August 2009.

[58] United Nations Framework Convention on Climate Change 1992, 1771, U.N.T.S, p.107 (UNFCCC).

[59] John Houghton, Geoffrey Jenkins and J. Ephraums (eds), 1990, *IPCC First Assessment Report 1990, Scientific Assessment of Climate Change: Report of Working Group 1,* Cambridge University Press, United Kingdom.

UNFCCC established an agreed global goal of stabilising greenhouse gas emissions at a level that will prevent dangerous climate change,[60] a general obligation on all countries to collect data on and report their greenhouse gas emissions[61] and important burden-sharing principles to guide the future level of obligations from developed and developing countries.[62] The UNFCCC has almost universal coverage, including ratification by the United States. In perhaps a sign of naivety at the coming difficulties in reducing greenhouse emissions, the developed countries listed in Annex 1 of the UNFCCC set as aspirational, non-binding target to reduce their national greenhouse gas emissions to 1990 levels by the year 2000.[63] However, it was soon recognised that stronger action was required from the Annex 1 developed countries than aspirational targets.

Through the 1995 Berlin Mandate[64] of the UNFCCC, a two-year period of global negotiations was scheduled with a view to setting binding emission reduction targets for the UNFCCC Annex 1 countries. Negotiations for these binding emission reductions targets were completed at the UNFCCC Third Conference of the Parties (COP3) meeting in Kyoto, Japan in 1997. The Kyoto Protocol to the Framework Convention on Climate Change[65] (Kyoto) contains obligation for developed countries (ie listed in Annex B) to lead on reducing greenhouse gas emissions by taking binding targets to reduce or limit their greenhouse gas emissions, against a 1990 baseline, by the target period of 2008-2012. The developing countries were exempted from this initial period of emission reduction targets due to the equity principle of common but differentiated responsibilities (CBDR), agreed to in the UNFCCC. The CBDR principle required that developed countries initially lead the way in emission reduction activities. The US Clinton Administration argued strongly at the Kyoto COP meeting for including market-based flexibility mechanisms in the treaty, namely, emissions trading, joint implementation and

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[60] Art. 2 of UNFCCC.
[61] Art. 4(1)(a) of UNFCCC.
[62] Art. 3(1) of UNFCCC.
[63] Art. 4(2)(a) of UNFCCC.
[64] UNFCCC,1995, The Berlin Mandate Decision 1/CP.1, UN doc FCCC/CP/1995/7/Add.1, available at http://unfccc.int/resource/docs/cop1/07a01.pdf , p.4-6.
[65] UNFCCC, 1997, Kyoto Protocol to the United Nations Framework Convention on Climate Change, 37 ILM 22 (1998), UN Doc. FCCC/CP/1997/7/Add.1, available at http://unfccc.int/resource/docs/convkp/kpeng.pdf

a Clean Development Mechanism, to assist the developed countries in meeting their emission targets at a least financial cost.[66]

However, in early in 1997, the US Senate indicated that it would oppose US ratification of any climate change treaty that placed binding emission reductions on developed countries only, or which would harm the US economy. This presented a potentially fatal obstacle to US participation in the Kyoto Protocol. Despite the position of the US Senate, the Clinton Administration signed Kyoto in 1998 and continued attending meetings to negotiate the finer details of its implementation, including rules for the flexibility mechanisms. Doubts over US participation in the Kyoto Protocol further escalated towards the end of the Clinton Administration. In late 2000, at the UNFCCC COP6 meeting at The Hague, the Clinton Administration abandoned negotiations on rules for implementing the flexibility mechanisms of Kyoto. In early 2002, the incoming G.W. Bush Administration formally announced the US would not ratify Kyoto and would withdraw from all further discussions under the Protocol. Australia made a similar announcement shortly thereafter. The US and Australia, two Annex 1 countries that had agreed to emission limitation targets at Kyoto, thus indicated they would not ratify the treaty and were openly opposed to developing nations being granted a period of grace without binding emission reduction obligations. Despite the US and Australian stand against Kyoto, international negotiations on the rules to implement the treaty continued during 2001 with agreement on fine details to implement Kyoto finally reached at the UNFCCC COP 7 meeting in Marrakech in late 2001.[67] The Russian Federation ratified the Kyoto Protocol in November 2004[68], thereby bringing the treaty into force. The developed countries in Annex B of the Kyoto Protocol were then bound to meet their emission targets for the first commitment period of 2008-2012. The UNFCCC COP 13 meeting in Bali, Indonesia agreed on a two year period of negotiations for the shape of the international climate change regime after the first commitment period of the Kyoto

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[66] Joanna Depledge, 1995, 'Against the Grain: The United States and the Global Climate Change Regime', *Global Change Peace and Security*, 17(1), pp.16-19.

[67] UNFCCC, 2002, *Report of the Conference of the Parties on its Seventh Session*, Marrakesh 29 October to 10 November 2001, UN Doc. FCCC/CP/2001/13/Add.2

[68] UNFCCC, 2009, *Kyoto Protocol: Status of Ratification*, http://unfccc.int/files/kyoto_protocol/status_of_ratification/application/pdf/kp_ratification_20090826corr.pdf

Protocol expires in late 2012.[69] This negotiation was carried out under 'two tracks', one involving the Kyoto Protocol countries that looked to strengthen the Annex B emission reduction commitments of developing countries (Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol), the second (Ad Hoc Working Group on Long-term Cooperative Action under the Convention) that included all countries party to the UNFCCC, including the US. The Copenhagen COP15 meeting in late 2009 was supposed to be a point of agreement on a new global architecture for the post-2012 period. However, the COP15 meeting only produced the Copenhagen Accord,[70] an agreement of two pages in length negotiated by a sub-group of approximately six countries, agreed to by approximately twenty countries at the meeting and ultimately only 'noted' by the wider COP meeting, rather than formally endorsed as a COP decision.

The Asia Pacific Partnership 2005

The launch of the Asia-Pacific Partnership on Clean Development and Climate (APP) in mid-2005 came us a surprise to the international community and media.[71] The APP countries had provided no prior indication that they were negotiating an international climate change agreement. The partnership was officially announced at a press conference at the 2005 Association of South East Asian Nations (ASEAN) Ministerial meeting in Vientiane, Laos.[72] Government Ministers from the six original APP countries; China, India, Japan, Australia South Korea and the US were at the launch. The Ministers explained the partnership was an "innovative and a fresh new development for the environment, for energy, security and for economic development in the region".[73] An APP 'Vision Statement'[74] was released at the launch however it contained little information on how the partnership would operate. The Australian Foreign Minister, Mr

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[69] UNFCCC, 2007, *Bali Action Plan,*
http://unfccc.int/files/meetings/cop_13/application/pdf/cp_bali_action.pdf
[70] UNFCCC, 2009, *Copenhagen Accord,* http://unfccc.int/resource/docs/2009/cop15/eng/l07.pdf
[71] Paul Brown and Jamie Wilson, 2005, 'US Plan to Bypass Kyoto Protocol', *The Guardian*, 28 July 2005, available at: http://www.guardian.co.uk/world/2005/jul/28/environment.usa
[72] *Ibid.*
[73]Alexander Downer , 2005, *Press Conference ITECC:Vientiane, Laos,*
http://pandora.nla.gov.au/pan/25167/20060602-0000/www.foreignminister.gov.au/transcripts/2005/050728_vientiane.html
[74] Asia-Pacific Partnership, 2009, *Vision Statement*, available at:
http://www.asiapacificpartnership.org/pdf/resources/vision.pdf

Downer, was the first to state the official APP position that the partnership was intended to complement the Kyoto Protocol rather than provide an alternative.[75] The partner countries have regularly repeated this official claim about the relationship between the APP and Kyoto Protocol over the past four years.

The first Ministerial meeting of the APP was held in Sydney, Australia in January 2006.[76] A 'Charter' document was released at the Sydney meeting that describes the organisational structure of the partnership.[77] The APP Charter establishes a governing body known as the 'Policy and Implementation Committee' (PIC) that is comprised of representatives from the seven partner governments.[78] The Charter also establishes eight sectoral (i.e. industry based) Task Forces comprised of representatives from the partner governments, public research bodies and the private sector. It is the role of the APP Task Forces to formulate project plans for approval and funding allocation by the PIC.[79] At the 2006 Sydney Ministerial meeting the PIC approved over 100 projects for the eight Task Forces.[80] By 2009, the total number of Task Force projects approved by the PIC was over 170.[81] The APP Task Forces meet several times each year although the exact number and timing of these meeting is not known. As at 2008, the APP had received only a total of $US200 million in public funding pledged by the seven partner governments.[82] The APP expects the private sector to provide a significant amount of the funding for the implementation of APP Task Force projects.[83]

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[75] Alexander Downer, 2005, *Press Conference ITECC:Vientiane, Laos*, http://pandora.nla.gov.au/pan/25167/20060602-0000/www.foreignminister.gov.au/transcripts/2005/050728_vientiane.html

[76] Connie Levett, Louise Dodson and Cynthia Banham, 2005, 'Pact halves Emissions by next Century', *The Sydney Morning Herald*, 29 July 2009, available at: http://www.smh.com.au/news/national/pact-halves-emissions-by-the-next-century/2005/07/28/1122143966688.html

[77] Asia-Pacific Partnership, 2009, *Charter,* http://www.asiapacificpartnership.org/pdf/resources/charter.pdf

[78] *Ibid.*

[79] *Ibid*

[80] *Ibid*

[81] Asia-Pacific Partnership, 2010, *Project Roster,* available at: http://www.asiapacificpartnership.org/english/project_roster.aspx

[82] US Department of State, 2008, *US Involvement in the Asia-Pacific Partnership on Clean Development and Climate*, available at: http://www.app.gov/library/111306.htm

[83] *Ibid.*

A number of countries have expressed interest in joining the APP since its formation. In October 2006, New Zealand released cabinet minutes indicating a desire to participate in the APP, initially by seeking involvement in APP Task Force activities.[84] The Russian Federation and Mexico have also expressed interest in joining the APP.[85] In late-2007, Canada was admitted as the seventh partnership country. To date, Canada is the only country that has been granted membership to expand the APP. The APP is thus comprised of a select grouping of seven countries. PIC meetings of the APP have only involved elite state actors. Civil society has generally been excluded from APP meetings.

APEC Sydney Leaders Declaration 2007

The Asia Pacific Economic Cooperation (APEC) meetings were initiated by Australia in the late-1980's as an informal forum for dialogue amongst countries of the Asia Pacific region on trade liberalization issues. APEC has twenty-one member economies, including all APP nations except India. An APEC member country acts as coordinator and host an annual round of meetings for national leaders and senior business and government officials. APEC does not have a founding charter or formal constitution but instead relies upon an agreed set of procedures for hosting of its meetings. In September 2007, Australia hosted the annual APEC Ministerial Meeting and Leaders Meeting in Sydney. At the meeting, Australia attempted to negotiate an APEC position on a long-term, aspirational (i.e. non-binding) global emissions reduction goal.[86] The meeting produced the 'Sydney APEC Leaders Declaration on Climate Change, Energy Security and Clean Development' (Sydney APEC Declaration). Given China's reluctance to discuss global emissions goals, the Sydney APEC Declaration contains only a commitment by APEC countries to "work to achieve a common understanding on a long-term aspirational global emission reduction goal to pave the way for an effective post-2012 international arrangement."[87] The Sydney APEC Declaration adopts an approach similar to the APP of

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[84] New Zealand Government, 2006, *CBC Min 06 17/19: Asia-Pacific Partnership on Clean development and Climate*, http://www.mfe.govt.nz/issues/climate/resources/cabinet-papers/cbc-min-06-17-19.html

[85] Harro van Asselt, 2007, From Un-ity to Diversity? The UNFCCC, the Asia-Pacific partnership, and the Future of International Law on Climate Change, *Carbon Climate Law Review* pp.17-28.

[86] Mariane Wilkinson 2007*, APEC Soft on Emissions,* Sydney Morning Herald, 18 August 2007.

[87] APEC, 2007**,** *Sydney APEC Leaders' Declaration on Climate Change, Energy Security and Clean Development,* available at:
http://www.apec.org/apec/leaders__declarations/2007/aelm_climatechange.html

shifting the focus of international cooperation on climate change toward voluntary commitments for research, information sharing and development of cleaner technologies. The Sydney Declaration also parallels the APP by focussing climate change policy on non-binding targets for reduction in carbon intensity. The Declaration contains an aspirational target for a 25% reduction in energy intensity in the APEC economies by 2030, using 2005 as a base year.[88] This energy intensity target is "APEC-wide" and so does not apply individually to any one country. The APEC Sydney Declaration again represented a shift towards international climate change policy being determined by sub-groups of countries and civil society being excluded from the forum.

US Major Economies Meetings 2007-2008

In early 2007, President G. W. Bush announced a new US initiative climate change initiative that was initially called the 'Major Emitters and Energy Consumers' process (MEP).[89] The MEP proposed a series of US-sponsored meetings of fifteen of the world's "top greenhouse economies and polluters" to "develop a long-term global goal to reduce greenhouse gasses" with each country working to "achieve this emissions goal by establishing ambitious mid-term national targets and programs, based on national circumstances."[90] The initiative envisioned that national targets and programs would be determined by each nation individually.[91] The initiative also proposed that major emitting nations "develop parallel national commitments to promote key clean energy technologies", with the US facilitating international development banks to provide low-cost financing options for clean energy technology transfer.[92] The MEP was specifically intended to "build on and advance US relations with the Asia-Pacific Partnership on Clean Development and Climate and other technology and bilateral partnerships"[93]. The MEP process would adopt the APP approach of drawing together representatives from various sectors such as power generation and energy production to devise a "common

[88] *Ibid,* p. 4

[89] White House, 2007, *Fact Sheet: A New International Climate Change Framework,* available at: http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070531-13.html

[90] *Ibid.*

[91] *Ibid.*

[92]*Ibid*

[93] *Ibid*

work program on best practices".[94] Despite launching the MEP, the Bush Administration claimed to be committed to the UNFCCC process and that the MEP meetings would "complement" ongoing UN activity.

The final MEP meeting was also held at the conclusion of the G8 summit in Hokkaido, Japan, in July 2008. This meeting produced the first publicly released document of the MEP, the 'Declaration of Leaders Meeting on Energy Security and Climate Change' (MEP Leaders Declaration).[95] The MEP Leaders Declaration contains a 'shared vision' for a long-term cooperative global goal for emission reduction, but does not contain any attempt to quantify such reduction. The MEP Leaders Declaration notes that developed nations will implement economy wide mid-term goals and actions to achieve absolute emission reductions.[96] However, this statement on developed nation mid-term goals is heavily qualified in that where applicable developed nations may simply focus on "stopping the growth" of emissions.[97] This accommodates the Bush Administration's approach of the US concentrating on "stopping the growth" of national emissions until 2025. The MEP Leaders Declaration also strongly emphasises the APP approach of sectoral-based technology cooperation and information exchange. The MEP Leaders Declaration quire clearly draws inspiration from the APP task force approach to technology development. In March 2009, the US Major Economies Process was re-badged by the Obama Administration as the 'Major Economies Forum on Energy and Climate.'[98] The seventeen countries of this new Obama backed forum met on five occasions[99] in the lead up to the Copenhagen with a view to reaching agreement on key climate related issues.[100]

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[94] White House. (2007b). *Press Briefing by Tony Snow and Jim Connaughton, Chairman of the Council on Environmental Quality, 31 May 2007*, available at: http://georgewbush-whitehouse.archives.gov/news/releases/2007/05/20070531-17.html
[95] White House. (2008b). *Declaration of Leaders Meeting on Energy Security and Climate Change 9 July 2008*, available from: http://georgewbush-whitehouse.archives.gov/news/releases/2008/07/20080709-5.html
[96] *Ibid.*
[97] *Ibid,* p. 2.
[98] US State Department, 2010, *Major Economies Forum on Energy and Climate,* http://www.state.gov/g/oes/climate/mem/
[99] US State Department, 2010, *Chair's Summary: Fifth Meeting of the Leaders' Representatives of the Major Economies Forum on Energy and Climate*, http://www.state.gov/g/oes/rls/other/2009/130717.htm
[100] US State Department, *supra* note 99.

The following section discusses the above select state-based climate change institutions in terms of the exclusive minilateral discourse discussed above.

5.　Exclusive Minilateralism: A Strengthening Discourse in International Climate Change Policy?

The exclusive minilateral discourse identified in section three above has been steadily building strength in academic and policy commentating circles particularly amongst authors opposed to the binding targets and timetables approach of the Kyoto Protocol. However, the strength of the exclusive minilateral discourse is even more evident in the intersubjective understanding underlying APP, APEC Sydney Declaration and US Major Economies Meetings. These non-UN climate change forums have sought to facilitate dialogue outside the UNFCCC process with a view to making important decisions on target ranges for medium and long-term global emission reduction. For example, the APP encourages each participating country to set its own non-binding greenhouse target to reduce greenhouse gas intensity, the level of ambition to be based on its own national circumstances. The APEC Sydney Declaration contains a non-binding, APEC-wide, medium-term energy intensity reduction target of very modest substance. The Major Economies Meetings were unable to agree on a figure for a medium term collective emission reduction target. However, the US MEP endorsed a medium-term approach of all countries (including developed countries) setting and implementing their own economy wide mid-term goals and actions on emission reduction that may be based on "stopping the growth" of their emissions (i.e. reduction of greenhouse gas intensity only) rather than reduction in emissions in absolute terms (i.e. below a 1990 a similar baseline). Important understandings have been built in these select non-UN forums as to the level ambition of future medium and long-term emission reduction targets. These negotiations have occurred and understandings been built in these select, non-UN minilateral forums that have excluded over 170 countries many of which will be impacted hardest by the early climate change impacts. Civil society organisations have also been largely excluded from attending and lobbying at these select, non-UN, minilateral forums.

The understandings built in these minilateral forums appear to have significantly influenced the process and outcome of the Copenhagen COP 15 meeting. The COP15 meeting was dogged by criticisms from smaller developing countries that key negotiating texts occurred were developed in an opaque manner by a small group of developing countries,[101] rather than in the more open, transparent and participatory process of earlier UNFCCC meetings. The final text produced at COP 15, the Copenhagen Accord, was produce again in an opaque manner by a handful of key developed and large developing countries and then presented to the full COP meeting for approval. The civil society delegations at COP15 were also highly critical of the unusual opaqueness of the negotiations and generating of negotiating texts at the meeting. The exclusive minilateral discourse of involving key state players only, to the exclusion of less-important states and civil society, appears to have been evident in the events of COP 15.

What does the strengthening of exclusive minilateral discourse mean for the furtherance of democratic principles in international climate change governance?

First, the exclusive minilateralist discourse is in direct contestation with cosmopolitan democratic version of liberal multilateralism. The very significant *reduction in franchise* advocated by the exclusive minilateral discourse (from all countries concerned with climate change to only the key emitters) is obviously at odds with the expansion of democratic process in international institutions that is core to cosmopolitan theory. The exclusive minilateralist discourse is therefore vulnerable to attack on the basis of its lack of legitimacy and failure to adhere to cosmopolitan democratic ideals. Second, the exclusive minilateralist discourse openly excludes civil society from participation in meetings of the key states in the 'inner sanctum' of decision making. This is again directly inconsistent with the stronger variants of cosmopolitan democratic theory that seek an expansion of the democratic franchise beyond states to individual citizens. Third, the exclusive minilateralist discourse also has some potential negative affects upon the

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[101]   John Vidal, 2009, 'Copenhagen climate summit in disarray after Danish text leak', The Guardian 8 December 2009, **http://www.guardian.co.uk/environment/2009/dec/08/copenhagen-climate-summit-disarray-danish-text**

level of discursive democracy in the international climate negotiations. The ability of civil society groups to participate in and lobby at formal international meetings on climate change is reduced and their ability to base their critique from a position of some intimacy within the formal institutional process is significantly weakened. However, as Dryzek points out, the exclusion of civil society groups from the formal governance international governance institutions may in some circumstances have a silver lining in boosting the democratic vitality of civil society, particularly where civil society has previously 'muzzled' its critique in order to remain within existing institutional structures.[102] So whilst the strengthening of exclusive multilateralism has serious negative consequences for cosmopolitan democratic governance of climate change it could embolden the vitality of civil society critique and engagement on international climate governance and hence the prospects for discursive democracy.[103]

However, a continued strengthening of the exclusive minilateral discourse and prevalence of exclusive minilateral institutions in international climate change governance carries significant risk that the economically powerful states will seek subtle redefinition of the 'problem' of human induced climate change and limit the range of acceptable policy options to those serving their immediate interests. The various minilateral forums discussed above have either explicitly or implicitly supported a rise in greenhouse emissions to 2050 that on the science of the IPCC will deliver in excess of three degrees annual surface temperature increase above pre-industrial levels. The country pledges made to the Copenhagen Accord and modelling done in support of the APP both tacitly accept a rise in surface temperature of this magnitude.[104] The 'key nations' involved in these minilateral forums thus have already arguably affected a subtle shift in inter-subjective meaning on what level of ambition might realistically be expected in global emission reduction and hence what our ambition should be on the level of acceptable climate change. The role of civil society and the media in discursive democracy will

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[102] Dryzek, *supra* note 32, p. 137.
[103] *Ibid*.
[104] See: Climate Tracker 2010, http://www.climateactiontracker.org/ and Melanie Ford et al, 2006, ABARE Conference Paper 06.3: *Perspectives on International Climate Policy*, available at: http://www.abare.gov.au/publications_html/conference/conference_06/CP06_03.pdf

become all the more important in critiquing and contesting such redefinition of the climate change problem and the range of acceptable responses.

7.   Conclusion

The exclusive minilateral discourse in international climate change governance has strengthened significantly over the past five years through both academic and policy commentary and US inspired institutional developments in the Asia-Pacific region. With the problems experienced in the UN climate process at Copenhagen there is now a significant likelihood that the exclusive minilateralist discourse will continue to strengthen and look to further shape global climate governance institutions This represents a threat to the pattern of inclusive multilateral climate governance that has been established over the past two decades, particularly the cosmopolitan form of consensus decision making of the UNFCCC meetings. If the exclusive minilateral discourse continues to strengthen, the role of the transnational public sphere in discursive democracy will become crucial in ensuring that problem definition and the range of acceptable policy responses is not skewed to far towards the interests of the countries allowed entry to the minilateral tent.