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Nationally determined contributions (NDCs) as a governance instrument – accounting for politics, negotiation progress, and related mechanisms under the Paris Agreement

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The article “Governing through the nationally determined contribution (NDC): five functions to steer states’ climate conduct” by Jernnäs (2023) is part of an important research effort to understand how climate governance under the Paris Agreement operates. The article succeeds in demonstrating that the adoption of the Paris Agreement did not resolve many of the long-standing differences between states, but further clarity is needed to accurately interpret its results. In this response, I outline five aspects to guide future research on NDCs as a governance instrument including the crucial distinction between exploring *potential* NDC functions based on submissions during the negotiation process and examining the *actual* NDC functions based on the adopted Paris rulebook and empirical observations. My response draws on participant observation at the United Nations climate change negotiations since 2015 (Leiter 2022, Langlet *et al.* 2023) and is further substantiated through literature on global climate change negotiations.

In December 2015, Parties to the United Nations Framework Convention on Climate Change (UNFCCC) adopted the Paris Agreement (UNFCCC 2015). Many details on how to operationalise its provisions were left open and designated for further elaboration during the three-year period 2016–2018. A common procedure during negotiations is for countries to state their views in the form of ‘submissions’, basically written negotiation positions. The negotiation process then seeks to find compromises so that countries’ positions gradually narrow down to a version that is agreeable to all. In December 2018, this process concluded in a set of decisions collectively

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known as the Paris rulebook (UNFCCC 2018). It is against this backdrop that I outline the following five aspects for research on NDCs.

First, research can examine countries' positions expressed during the negotiations, or the adopted decisions, or a combination of both. By using submissions as the only data source, Jernnäs chose the former. Such an approach can yield useful insights into the politics and 'terrains of contention' (Calliari *et al.* 2020) and is indeed suitable to 'examine how states articulate ideas on governing through the NDC' (Jernnäs 2023, p. 6). However, the breath of views expressed in submissions, including the most extreme positions, are not representative of the much narrower set of NDC rules countries had agreed to in December 2018 (Decision 4/CMA.1 in UNFCCC 2018). Jernnäs' analysis does not account for this decision and readers are left unaware of its existence. At times, the article therefore appears to conflate an inquiry into the variety of country positions expressed *during* the negotiations with examining how NDCs actually govern based on the agreed *outcome* of negotiations. As a consequence, the reader is left with the impression that the conflicting issues around NDCs are still left largely unresolved, an impression reinforced by Jernnäs' argument that 'these diverging views on the function of the NDC will become increasingly prominent as we move toward the first round of the global stocktake in 2023' (p.1). On the contrary, countries' positions had already considerably narrowed to a set of rules that were adopted in December 2018. For example, on two of the most prominent issues of contestation, namely the extent of standardisation of NDCs and requirements for comparability of emission reduction pledges, countries agreed to mandatory information on 'clarity, transparency and understanding' (CTU) that all countries must provide (Decision 4/CMA.1, paragraph 7). The compliance rate of CTU information in NDCs across all Parties is 95% as of September 2022 (UNFCCC, 2022)." Failing to mention that countries had already converged their positions and to discuss what this means for NDC's functions can cause readers to misinterpret findings of the article, for example by taking the five functions shown in Figure 1 of Jernnäs (2023) as representing the actual ways in which NDCs have come to govern states' behaviour. The robustness of future research into the governance functions of the NDC can be increased by analysing submissions in conjunction with adopted decision text.

Second, submissions are instruments through which states seek to influence negotiations in accordance with their interests. When analysing submissions, it is therefore important not to take the ideas expressed in submissions at face value. For example, the proposal by China to use NDCs merely for sharing good practices was made precisely to avoid stringent requirements that enable comparing and aggregating countries' commitments (Dimitrov 2016). Indeed, literature has recognised that NDCs can be interpreted not only as pledges, but also as negotiation positions (Leinaweaver and Thomson 2021) which applies even more to submissions.

Instead of accounting for the underlying politics, Jernnäs engages with some of states' submitted ideas at face value, especially on the 'Influencer' function (section 5.3), thereby justifying rather than analysing certain positions. As a consequence, readers might take away that NDCs would commonly function as a tool for showcasing good practices which is rarely done in practice and not at all mentioned in the respective decision of the Paris rulebook.

A third and equally important aspect is that NDCs' governance effects cannot be properly understood without considering the interlinkages to other parts of the Paris architecture. The Paris Agreement established a 'pledge and review system' whereby states pledge their commitments that are subsequently reviewed through multiple mechanisms. Accordingly, Winkler (2017, p. 163) emphasises that NDC's 'mitigation provisions [in Article 4] need to be read together with links to transparency¹ and the global stocktake', i.e. with Articles 13 and 14. In contrast, Jernnäs presents the NDC 'as the central instrument for achieving the stipulated targets' and, while mentioning the transparency framework briefly, portrays the Paris Agreement design largely as 'a pledge-based system' (p.3–4). However, the element of national pledges became only agreeable *in combination* with the review component that serves to 'counterbalance the lack of specific and individual mitigation obligations, to improve the credibility of the global effort, and to create mutual trust' (Bodle *et al.* 2016, p. 12). Indeed, information on implementation that is crucial for trust-building and for tracking progress must be provided every two years through transparency reports rather than just every five years via NDCs (Winkler *et al.* 2017). Since the NDC is inextricably linked to the review system, presenting NDCs as fulfilling the functions of 'Trust-builder' and 'Progress Tracker' *in isolation* from other mechanisms is an inaccurate representation of the architecture of the Paris Agreement.

Fourth, NDCs primarily refer to the temperature goals and less to the other two objectives of the Paris Agreement, namely adaptation to climate change and making financial flows consistent with low greenhouse gas emissions and climate-resilient development (Article 2.1). While most NDCs mention adaptation, the far more consequential governance instruments for adaptation are National Adaptation Plans (mandated in Article 7.9), Adaptation Communications (Article 7.10–11), and the Global Goal on Adaptation (Article 7.1) (Leiter 2022). Therefore, solely focusing on NDCs does not sufficiently capture the governance of two of the three objectives of the Paris Agreement.

The fifth aspect concerns the challenge of making sense of complex negotiation dynamics and associated governance effects without oversimplification. Drawing on Foucauldian governmentality studies, Jernnäs 'seek[s] to bring analytical clarity to the rationalities that inform governing under the Paris Agreement' (p.3). Her analysis identifies five NDC functions which, as explained above, do not necessarily represent the actual ways through which NDCs influence states' behaviour. Jernnäs then denotes three of them

(‘Progress Tracker’, ‘Trust-Builder’, and ‘Influencer’) as ‘center[ing] around a techno-managerial rationality’. The other two functions (‘Differentiator’ and ‘Gatekeeper’) would ‘exhibit an antagonistic rationality’ that ‘highlight[s] the long-standing, structural political struggles that surround climate governance’ (p.16–17). Yet, accounts of the negotiations clearly attest that *all* major agenda items were strongly influenced by long-standing political struggles (e.g. Dimitrov 2016). In fact, the transparency mechanism was a ‘crunch issue’ in Paris (Bodansky 2016, p. 311). Gupta and van Asselt (2019) likewise find transparency just to mirror the disputes around differentiation and burden sharing. Thus, reducing the central issues of progress tracking and trust building to merely following a ‘techno-managerial rationality’ is an oversimplification that, paradoxically, itself risks hiding the political struggles that play out in their implementation.

Jernnäs describes the main risk of a techno-managerial rationality as ‘presenting problems of insufficient climate action as a lack of expert knowledge, quantification, and reporting cycles’ which in turn ‘risks displacing political contention’ (p.17). While rationalist assumptions such as more information leading to better action are indeed common in climate governance (e.g. Gupta and Mason 2016), a lack of information has not recently been advanced by states to justify low ambition. Instead, political conflicts around the phase out of fossil fuels have been on full display at recent climate change conferences (Lo and Farand 2022). These conflicts do no longer just unfold along the traditional lines of developed vs. developing countries, but between countries determined to continue producing oil, gas and coal and those that foster a faster transition away from fossil fuels. Against this backdrop, it remains unclear how climate action could be enhanced by utilizing NDCs for ‘fending off seemingly predatory attempts at increased international assimilation’, as Jernnäs suggests (p. 17).

Overall, out of the five functions that Jernnäs ascribes to the NDC based on countries’ submissions, two (‘Progress Tracker’ and ‘Trust-Builder’) cannot be performed in isolation from review mechanisms, one (‘Influencer’, i.e. showcasing good practices) is rarely done via NDCs, and another one (‘Gatekeeper’) outlines more a debate rather than a governance function. Furthermore, the way the functions are arranged in Figure 1 of Jernnäs (2023) suggests each would be of equal importance which does not correspond to the dynamics of the ambition cycle (see e.g. Sælen 2020). While it is perfectly legitimate to ‘explore how governing climate change through the NDC is envisioned by states’ (in this case, how it *was* envisioned in 2016–2018) (p.3), understanding how NDCs actually “steer states’ climate conduct” (the title of the article) would have required integrating the adopted decisions of the Paris rulebook into the analysis. Additionally, any inquiry into the governance effects of the NDC must account for the inherent interlinkages with other mechanisms of the Paris architecture (Winkler

2017). Finally, it remains a challenge for the scholarly community to explain complex and multi-faceted negotiations without oversimplification, especially regarding the causes of particular negotiation outcomes. I hope that the five aspects outlined above will help guide future research on this important matter.

Note

1. Importantly, the term transparency in context of the Paris Agreement does not just refer to transparency of information contained in NDCs but to a review mechanism including the Enhanced Transparency Framework under Article 13. The UNFCCC website provides a useful introduction: <https://unfccc.int/Transparency>

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