

## **Justice in Disarray? Assessing the Legitimacy of the Paris Agreement After the U.S. Withdrawal**

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### **Abstract**

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The issue of climate change is a global environmental challenge that requires comprehensive collaboration between countries. The Paris Agreement was born as an international legal instrument under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC), with a nationally determined contributions (NDCs) approach and the principle of common but differentiated responsibilities. The United States, as one of the world's largest emitters, plays a key role in emissions reduction efforts and provides financial assistance to developing countries. However, the United States' unilateral decision to withdraw from the Paris Agreement during the Donald Trump administration, citing economic interests, has sparked debate regarding the binding force of international agreements. Through a normative legal approach and analysis of the 1969 Vienna Convention on the Law of Treaties, it was found that the United States' withdrawal contradicts the provisions of Article 62 concerning a fundamental change of circumstances. This situation demonstrates the dilemma between national sovereignty and compliance with global commitments. Therefore, strengthening the enforcement and implementation mechanisms of international agreements in the environmental sector is necessary to ensure the achievement of global ecological justice.

### **1. Introduction**

Environmental issues are currently a major focus of international discourse, given their broad and multidimensional impacts on human life and the sustainability of the Earth. One crucial issue within global environmental concerns is climate change. This refers to the phenomenon of a progressive increase in the average temperature of the Earth's surface over time, primarily caused by the accumulation of greenhouse gases in the atmosphere caused to human activities, such as the burning of fossil fuels and deforestation.<sup>1</sup> Of course, this phenomenon not only affects global climate stability but also causes various detrimental ecological impacts. For example, climate change contributes to the extinction of various flora and fauna species, decreases biodiversity, and disrupts the overall ecosystem balance. Furthermore, rising global temperatures have accelerated the melting of ice and glaciers in polar regions, ultimately triggering significant sea level rise. If not addressed collectively through international cooperation, climate change could exacerbate global inequality and threaten the survival of future generations.

In order to respond to various problems arising from global climate change, the United Nations (UN) took strategic steps by forming an international legal and institutional framework called the United Nations Framework Convention on Climate

<sup>1</sup> Buleleng Admin, "The Impact of Global Warming on Human Life and the Environment," Buleleng Regency Government, Buleleng District, March 16, 2021.

Change (UNFCCC) on May 9, 1992. This convention was designed as a global forum that allows member countries to work together systematically in an effort to stabilize greenhouse gas concentrations in the atmosphere at a level that does not endanger the global climate system.<sup>2</sup> The UNFCCC is an important foundation in the formulation of international climate policy, as well as being a reference in the formulation of various further legal instrument aimed at controlling global warming and promoting environmentally sustainable development. To achieve this goal, Conferences of the Parties (COPs) were established to bring together parties who agreed to various UNFCCC commitments and follow-up actions to address the sustainability of climate change issues.

At the 3rd Conference of the Parties (COP) held in Kyoto, Japan, in 1997, the international community succeeded in agreeing on a legal instrument known as the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or better known as the Kyoto Protocol.<sup>3</sup> This protocol represents a concrete effort to operationalize the primary objective of the UNFCCC, namely by establishing binding legal obligations for developed countries to reduce greenhouse gas emissions over a specified commitment period. Despite its important role in the history of international climate regulation, the implementation of the Kyoto Protocol faces significant challenges. These obstacles include the lack of participation of major emitting countries, the imbalance of obligations between developed and developing countries, and weak enforcement mechanisms for violations of commitments. These conditions limited the effectiveness of the Kyoto Protocol and ultimately led to the decision to discontinue it as the primary instrument for controlling global climate change. In response to these limitations, at the 21st Conference of the Parties (COP21) held in Paris, France, in 2015, the participating countries agreed to a new, more inclusive and flexible framework, the Paris Agreement, to replace the Kyoto Protocol with a more adaptive approach to global political and economic dynamics.

Paris Agreement is an international legal instrument designed within the UNFCCC as a response to the failure of previous mechanisms to effectively address climate change. This agreement establishes a commitment for countries contributing more than 80% of global greenhouse gas emissions to set specific emission reduction targets in accordance with their respective national capabilities and conditions. This approach, based on Nationally Determined Contributions (NDCs) marks a shift towards a more flexible and inclusive system. To achieve its main goal of curbing global temperature increases, the Paris Agreement establishes five main pillars that serve as a reference for the implementation of the agreement: mitigation, transparency, adaptation, loss and damage, and finance.<sup>4</sup> These five aspects were agreed upon by the participating countries at the 21st Conference of the Parties (COP) in Paris as a form of shared commitment to creating a more balanced and

<sup>2</sup> Andreas Pramudianto, "From the Kyoto Protocol 1997 to the Paris Agreement 2015: Dynamics of Global Climate Change Diplomacy and ASEAN Towards 2020," *Global: Journal of International Politics* 18, No. 1 (May 15, 2016): 76, Doi:10.7454/Global.V18i1.119.

<sup>3</sup> Sukma Sushanti, Putu Ratih Kumala Dewi, Luh Putu Ariska Kusuma Sari, "Offensive Realism Review: The United States' Withdrawal from the Paris Agreement in 2017," *Journal of International Relations* 1, No. 2 (August 2019).

<sup>4</sup> *Climate Change, Paris Agreement, and NDC Pocket Book* (1), and

equitable framework for action between developed and developing countries. A substantial innovation in the Paris Agreement lies in its ability to accommodate the diverse interests and capacities of member countries more proportionally than previous agreements, such as the Kyoto Protocol. This more participatory and non-dictatorial approach has made the Paris Agreement more widely accepted by the international community. This has also encouraged many countries, including the United States, to provide support and express commitment to its implementation.

The United States recognizes that climate change is a significant and urgent global challenge that must be addressed. As a sign of its seriousness regarding this issue, the United States has taken various strategic steps to mitigate and adapt to the impacts of climate change. One concrete manifestation of this commitment is the country's ratification of the Paris Agreement, an international treaty aimed at limiting global warming and encouraging sustainable, low-emission development. As a concrete manifestation of its commitment to the Paris Agreement, the United States affirmed its commitment by designing a strategic policy called the Climate Action Plan, which was implemented in 2013. This initiative was launched as a concrete step to significantly reduce greenhouse gas emissions.<sup>5</sup> In the plan, the United States government set an ambitious target of reducing emissions by approximately 17% by 2020 compared to previous years. This demonstrates that the United States' involvement in the Paris Agreement is not merely symbolic but is accompanied by measurable and structured policy measures.

In addition to implementing a policy called the Climate Action Plan, the United States also established diplomatic relations with China as an effort to address climate change, considering that the two countries are the largest producers of carbon gases.<sup>6</sup> Within the framework of this bilateral relationship, the United States and China have signed several joint statements on climate cooperation. One notable statement was the 2014 US-China Joint Announcement on Climate Change, which expressed both countries' commitment to reducing emissions and promoting clean energy. This statement was updated in the US-China Joint Glasgow Declaration on Enhancing Climate Action in the 2020s in November 2021, ahead of the UN Climate Change Conference (COP26). In the declaration, both countries agreed to cooperate on reducing methane emissions, supporting clean energy transitions, increasing national ambition in their Nationally Determined Contributions (NDCs), and accelerating progress toward achieving the goals of the Paris Agreement.<sup>7</sup> However, during the administration of President Donald J. Trump, the United States withdrew from the Paris Agreement, arguing that it imposed unfair economic burdens on the country. The US government argued that the commitments required by the agreement, such as greenhouse gas emission reductions and contributions to the Green Climate Fund,

<sup>5</sup> Tedi Bagus and Prasetyo Mulyo, Barack Obama's Approval of the 2015 Paris Agreement (nd).

<sup>6</sup> Ayatollah Komeini, "China's Diplomacy Towards the United States in the Paris Agreement 2015-2016," JOM FISIP 4, no. 2 (October 2017): 8.

<sup>7</sup> HuirongLiu, ZhengkaiMao, and XiaohanLi, "Analysis of International Shipping Emissions Reduction Policy and China's Participation," Frontiers in Marine Science 10 (January 30, 2023): article1093533, <https://doi.org/10.3389/fmars.2023.1093533>

would harm domestic industries – particularly the coal sector – and threaten millions of jobs. Trump stated that the Paris Agreement was deeply unfair to the United States at the highest level and favored countries such as China and India, which, he argued, received concessions on emissions limits. He also considered the agreement a form of global interference in US energy sovereignty and hampered the country's ability to determine its own environmental policies.<sup>8</sup> This is the main reason why the United States withdrew from the Paris Agreement.

The United States' decision to withdraw from the Paris Agreement during the administration of President Donald J. Trump has opened an important discussion regarding the legal status and binding force of international treaties. In general, the mechanisms by which a state becomes party to an international treaty are detailed in Articles 11 to 16 of the 1969 Vienna Convention on the Law of Treaties, which outline the various procedures a state can take to declare its willingness to become a party to an international treaty.<sup>9</sup> Thus, the United States' legal ratification of the Paris Agreement signifies its agreement to be bound by its provisions. In the context of international law, the Paris Agreement is a binding international environmental agreement for all parties that have ratified or agreed to it. However, this agreement also offers flexibility in its implementation mechanisms, including the freedom for participating countries to determine their NDCs.

The United States' withdrawal demonstrates how a country can use the principle of national sovereignty to suspend its international obligations, while also raising questions about the effectiveness and legitimacy of international agreements that are not accompanied by strict sanctions for violations or withdrawal. Therefore, it is important to further examine how the legal framework of international agreements regulates the mechanisms for participation, withdrawal, and the resulting legal impacts for participating countries, particularly in the context of global cooperation in addressing climate change. However, the actions taken by the United States contradict the provisions of Article 62 paragraph (1) of the Vienna Convention on the Law of Treaties 1969, which states that a country cannot withdraw from an international agreement simply because of a fundamental change in circumstances. Furthermore, Article 28, paragraph (1) of the Paris Agreement also regulates the possibility for member countries to withdraw or re-enter the agreement, subject to the provisions and agreements agreed upon by the parties at the time of the formation of the Paris Agreement.

Based on this description, it can be seen that the Paris Agreement is a significant milestone in international cooperation to collectively address global climate change. Although designed as a binding international legal instrument, its flexibility in implementation and the absence of a firm sanction mechanism for countries that withdraw, as in the case of the United States, pose unique challenges in enforcing compliance and the agreement's effectiveness. This situation demonstrates the tension between the principle of state sovereignty and the spirit of global solidarity in environmental protection. Therefore, it

<sup>8</sup> Michael R. Pompeo, "On the US Withdrawal from the Paris Agreement," US Department of State, November 4, 2019.

<sup>9</sup> Fanny Shakira and Eva Rona Sihombing, "Unilateral Withdrawal by the United States from the 2015 Paris Agreement Based on the Vienna Convention on the Law of Treaties 1969," in *Jurnal Multidisiplin West Science*, vol. 02, no. 07 (nd).

is important to conduct further studies on how the binding force of the Paris Agreement, according to the Vienna Convention on the Law of Treaties 1969, is to realize international environmental justice, which is the main focus of this research.

## 2. Methods

This research employs a normative legal research method, an approach that focuses on the study of applicable legal norms as a basis for analyzing a legal issue. This method is used because the primary object of this research is international legislation, specifically the Paris Agreement and the Vienna Convention on the Law of Treaties 1969, which serve as the primary instruments in assessing the binding force of an international agreement.

## 3. Results and Discussion

A state is an international entity with rights and obligations under international law. The requirements for a state to be established include recognition by other states or the ability to conduct relations with other states, as evidenced by diplomatic relations. These relations are realized through international agreements. International agreements serve as a reference for states in resolving issues arising in international relations, in addition to international customs, general legal principles, jurisprudence, and expert doctrine. International agreements create obligations for the parties.<sup>10</sup>

In the context of increasingly dynamic and interdependent relations between countries, international treaties play a crucial role as legal instruments in maintaining stability, certainty, and justice in the global system. These instruments not only serve as a formal basis for establishing cooperation in various sectors between countries, but also constitute one of the main sources in the structure of international law. To ensure uniformity and clarity in the drafting and implementation of treaties, the international community has established a structured legal instrument through the Vienna Convention on the Law of Treaties 1969. This Convention serves as a legal basis that provides definitional boundaries, basic principles, and legal norms used as the main reference in the practice of international treaties.

Referring to Article 2 paragraph (1) of the Vienna Convention on the Law of Treaties 1969, an international agreement is defined as an agreement made by countries in written form and subject to the provisions of international law, either in the form of one document or several interrelated documents, without limiting the naming.<sup>11</sup> Based on this formulation, several essential elements must be met, namely the involvement of the state as a legal subject, a written form as a medium of agreement, enforceability under international law, and not being limited to specific formal terminology such as treaties or protocols. This concept emphasizes not only the formal legal aspects but also the substance of the agreement that creates reciprocal rights and obligations between parties. Therefore, the definition and concept of international agreements as stipulated in the 1969 Vienna Convention on the Law of Treaties serve as the primary basis for assessing the validity and enforceability of agreements within the framework of international law.<sup>12</sup>

<sup>10</sup> JG Starke, *Introduction to International Law*, 10th ed., vol. 2 (Sinar Grafika, 2004).

<sup>11</sup> Kusuma Winanda and Hutapea Sintong Arion, *International Treaty Law Textbook Edition*, 1st ed., ed. Kurnia A. Cery (Lakeisha, 2022).

<sup>12</sup> B.I.Nefedov, "Principles in International Law: Terminology," *Moscow Journal of International Law*, no.1 (March 30, 2019): 6-17, <https://doi.org/10.24833/0869-0049-2019-1-6-17>

One of the fundamental characteristics of an international treaty lies in its binding force on the countries that are parties to it. After going through the stages of signing and ratification in accordance with each country's national legal procedures, the treaty acquires legal legitimacy, requiring its implementation by the parties involved. This aspect plays a crucial role in maintaining the continuity and effectiveness of the international legal system, because without such binding force, there is no guarantee that the agreed-upon obligations will be complied with by the countries concerned.<sup>13</sup>

The binding force of international treaties, as stipulated in the 1969 Vienna Convention on the Law of Treaties, is inseparable from the fundamental principle underlying them, namely, *pacta sunt servanda*. This principle is a fundamental principle in international treaty law, stating that every agreement agreed to by the parties must be implemented in good faith. This principle forms the basis for the legal validity of an international treaty and ensures that participating countries are legally bound by their commitments.<sup>14</sup> This concept is clearly stated in Article 26 of the Vienna Convention on the Law of Treaties 1969, which states that: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." Thus, the principle of *pacta sunt servanda* not only ensures legal certainty in relations between countries but also maintains the stability and integrity of the international legal system.<sup>15</sup>

Although international treaties have a strong binding force based on the principle of *pacta sunt servanda*, the 1969 Vienna Convention on the Law of Treaties also allows for the possibility of termination under certain conditions. Regulations regarding the termination of treaties are important to maintain a balance between the principle of legal certainty and the ever-evolving dynamics of international relations. In this regard, Article 54 stipulates that a treaty may be terminated or one party may withdraw if agreed by the parties. This agreement can be stated explicitly in the provisions of the treaty itself (Article 54(a)), or at any time and in any form by mutual agreement (Article 54(b)). This provision provides flexibility, but still prioritizes the principle that termination must be carried out by agreement of the parties.

Furthermore, Article 56 regulates the termination or withdrawal from an agreement that does not include a termination clause. In this case, termination is still possible if it is proven that the parties intended to allow termination or if there is a certain nature of the agreement that implicitly allows termination. Meanwhile, Article 60 provides a legal basis for terminating or suspending the validity of an agreement due to a material breach by one of the parties. This provision is very important as a form of protection for parties who are harmed due to a serious violation of the agreement's contents. Furthermore, Article 61 explains that an agreement can be terminated if its implementation becomes impossible, for example, due to the destruction of the main object of the agreement. Meanwhile, Article 62 allows for termination or a change in the status of an agreement if there is a fundamental change of circumstances that cannot be predicted and affects the substance of the parties' obligations. Finally, Article 64 stipulates that

<sup>13</sup> Songko Gerald E., "The Binding Force of International Agreements According to the 1969 Vienna Convention," *Lex Privatum* IV, no. 4 (2016): 46.

<sup>14</sup> S.Sefriani, "Unilateral Termination of International Trade Agreements," *Padjadjaran Journal of Legal Studies* 2, no.1 (April2015): 86-104, <https://doi.org/10.22304/pjih.v2n1.a6>.

<sup>15</sup> Purwanto Harry, "The Existence of the Principle of *Pacta Sunt Servanda* in International Agreements," *Law Forum* 21, no. 1 (2009).

if a new *jus cogens* (imperative) international legal norm emerges and conflicts with the contents of the agreement, the agreement is null and void.

Paris Agreement is a form of international agreement followed by countries around the world. The Paris Agreement was ratified at the 21st Conference of the Parties (COP-21) held in Paris in 2015 as a form of international response to the ineffectiveness of previous agreements, such as the Kyoto Protocol, in addressing the issue of climate change fairly and comprehensively. The emergence of this agreement was driven by increasing scientific concerns about the global climate crisis. This agreement applies an inclusive and participation-based approach through the NDCs scheme, namely voluntary commitments from all countries, both developing and developed, to reduce greenhouse gas emissions. The main goal of this agreement is to limit the increase in global temperatures below the threshold of 2°C, with maximum efforts to hold it at 1.5°C. The existence of the Paris Agreement represents important progress in global environmental diplomacy and serves as a basis for a common agreement for the sustainability of life on this planet.<sup>16</sup>

Within the framework of international law, the Paris Agreement is categorized as a multilateral international agreement that has high binding power on its participating countries.<sup>17</sup> This agreement is the result of a consensus of almost all member states of the United Nations and has been ratified by more than 190 countries, reflecting its legitimacy and broad global acceptance. The multilateral status of this agreement confirms that it applies to many countries simultaneously and is subject to the provisions of the 1969 Vienna Convention on the Law of Treaties, particularly the principle of *pacta sunt servanda* which requires the implementation of agreements in good faith. The implementation of the obligations of the participating countries is carried out through the NDCs mechanism, which requires each country to set, report, and update its emission reduction targets periodically. A transparent reporting system and an annual forum in the form of the COP further strengthen the multilateral dimension of this agreement as a legal instrument that supports international cooperation in collectively addressing the climate crisis. The Paris Agreement is one of the international agreements that regulates countries to protect the international environment. Article 2 paragraph (1) letters a, b, and c of the Paris Agreement states that this agreement was formed to curb the rate of increase in the earth's average temperature, directing the increase in the adaptation capabilities of countries that are members of the Paris Agreement in an effort to deal with climate change that has negative effects, and creating a scheme for channeling funds towards environmentally friendly development. Therefore, there are several basic principles such as the principle of equality and the principle of precaution. Article 3 of the Paris Agreement states that each party to this convention has the same general responsibilities, but can be differentiated based on the capabilities of each party. Meanwhile, Article 4 stipulates that each party can cooperate in the fields of information technology, socio-economics, and scientific research related to systems and climate change. However, despite this, there are differences between industrialized countries and developing countries, as

<sup>16</sup> R Falkner, "The Paris Agreement and the New Logic of International Climate Politics," *International Affairs*, 2016.

<sup>17</sup>Kiki Rizky Amelia and Nelly Saptatiningsih, "The State's Bound by International Agreements Reviewed from an International Law Perspective," *Jurnal Supremacy Hukum* 9, no. 1 (January 2020).

reflected in Annex I and Annex II, which have their own obligations to reduce greenhouse gas emissions by 5%. Therefore, it can be concluded that the Paris Agreement reflects the principles of equality and shared responsibility that are adjusted to the capabilities and conditions of each member country. Each member country that agrees to and ratifies the Paris Agreement has the responsibility to apply and take concrete steps to implement the provisions of this international agreement.<sup>18</sup>

When viewed through the lens of distributive justice theory, the Paris Agreement presents a fundamental conceptual dilemma. This agreement is often praised for uniting nearly all countries worldwide in a global commitment to address climate change. However, behind this achievement lies a crucial question: to what extent does the agreement truly achieve a fair distribution of burdens between countries? The NDCs mechanism it promotes does allow for voluntary action and presents a formal facade of equality between parties. However, this mechanism does not substantially correct the historical inequalities inherent in the relationship between developed and developing countries.<sup>19</sup> Developing countries, which are by far the most vulnerable to the destructive impacts of climate change, face limited institutional, financial, and technological capacity to optimally mitigate and adapt. Meanwhile, developed countries, which have historically contributed the most to emissions, can minimize their moral and political obligations by using domestic interests as cover. This situation creates a paradox: those who have contributed the least to the climate crisis bear the greatest burden of vulnerability, while those who have caused the most damage have room to mitigate their responsibilities. This imbalance reveals a significant gap between the normative principles put forward by the Paris Agreement and the reality of burden distribution on the ground. Thus, the justice claimed within the framework of this agreement remains problematic and questionable, particularly when examined within the framework of distributive justice theory, which demands a more proportional and equitable allocation of burdens and responsibilities.

Given its status as a legally binding multilateral international treaty, national implementation of the Paris Agreement requires ratification by each participating country. Ratification of the Paris Agreement by participating countries represents a formal legal step affirming their willingness to comply with and implement the obligations under the agreement.<sup>20</sup> Within the framework of international law, ratification not only serves as a form of final approval but also signifies a country's legal commitment to the contents of the treaty. In accordance with the principles set out in the 1969 Vienna Convention, ratification legitimizes the implementation of the treaty's provisions by the contracting states, while also reinforcing the principle of *pacta sunt servanda*, which states that every treaty that has entered into force must be implemented in good faith by the parties.

<sup>18</sup> Arie Afriansyah and Amira Bilqis, "Paris Agreement: Response to the Common but Differentiated Responsibilities and Respective Capabilities Principle Approach in the Kyoto Protocol," *De Jure Legal Research Journal* 20, no. 3 (2020): 391, <https://doi.org/10.30641/dejure.2020.V20.391-408>.

<sup>19</sup> Marc David Davidson, "How Fairness Principles in the Climate Debate Relate to Theories of Distributive Justice," *Sustainability* 13, no. 13 (2021): 7302, <https://doi.org/10.3390/su13137302>

<sup>20</sup> Wahyu Setyo Aryanto, "Responsibilities of Countries Ratifying the Paris Agreement Towards Small Countries Affected by Climate Change," *Jurnal Teknik* (Surabaya: Wijaya Kusuma University, Surabaya, 2023).

With the ratification of the Paris Agreement, participating countries are obligated to implement the core provisions agreed upon. This agreement emphasizes the commitment to reduce emissions through NDCs, keeping global temperature rise below 2°C with the ambition to reach 1.5°C, and strengthening adaptation, transparency, and funding for developing countries. Periodic evaluations are carried out every five years through the Global Stocktake mechanism to ensure shared progress. As part of a fair international legal structure, the Paris Agreement maintains the principle of Common but Differentiated Responsibilities (CBDR). This principle states that although all countries have responsibilities in addressing climate change, the level of these obligations varies according to national capacity and historical contributions to climate issues.<sup>21</sup> In this context, developed countries are required to provide assistance in the form of funding, technology, and capacity building to developing countries to support the equitable achievement of mitigation and adaptation goals. When linked to the theory of distributive justice, the CBDR principle aligns with John Rawls's idea of the difference principle, which emphasizes protecting the most vulnerable. Thomas Pogge emphasizes the moral responsibility of developed countries that have built their economies by destroying the global ecosystem, while Simon Caney highlights the importance of a cosmopolitan perspective that every individual in the world has an equal right to protection from climate impacts.<sup>22</sup> The United States' withdrawal from the Paris Agreement can be seen as a failure to uphold the CBDR principle, as it ignores historical responsibilities and undermines equitable burden-sharing at the global level. Furthermore, the Paris Agreement has a unique legal character, containing a combination of binding and non-binding provisions. Some elements, such as the obligation of state parties to prepare, communicate, and update their NDCs, are procedurally binding. However, the content or magnitude of the emission reduction targets themselves are not subject to legal sanctions if not achieved, so the substantive aspects of the NDCs are voluntary. This hybrid character allows state parties political flexibility while maintaining global commitments to climate change control efforts.<sup>23</sup>

The Paris Agreement represents a response to climate change and the climate crisis that threaten the lives of the international community, necessitating the responsibility of every nation to take steps to preserve the environment. The United States plays a key role in the Paris Agreement, raising awareness of climate change caused by global warming and providing financial assistance to developing countries under the Paris Agreement.<sup>24</sup> The unilateral withdrawal action taken by the United States resulted in the loss of the United States' obligations in protecting the environment, which is experiencing climate change due to global

<sup>21</sup>Love Alfred, "A Just Energy Transition Through the Lens of Third World Approaches in International Law," *Opole Studies in Administration and Law* 21, no.2 (December 12, 2023): 9-41, <https://doi.org/10.25167/osap.5258>.

<sup>22</sup>Simon Caney, "Cosmopolitan Justice, Responsibility, and Global Climate Change," *Leiden Journal of International Law* 18, no. 4 (2005): 747-775, <https://doi.org/10.1017/S0922156505002992>

<sup>23</sup>Bodansky Daniel. "The Legal Character of the Paris Agreement." *Review of European, Comparative & International Environmental Law*, Vol. 25, no. 2, 2016.

<sup>24</sup>Hai-Bin Zhang, Han-Cheng Dai, Hua-Xia Lai, and Wen-Tao Wang, "US Withdrawal from the Paris Agreement: Reasons, Impacts, and China's Response," *Advances in Climate Change Research* 8, no. 4 (December 2017): 220-225, <https://doi.org/10.1016/j.accre.2017.09.002>.

warming.<sup>25</sup> The provisions in Article 15 paragraph (2) of the Paris Agreement emphasize the mechanism for settlement and accountability for the United States' withdrawal, where there is a Committee of Experts that carries out its duties transparently, does not force and is not authorized to impose sanctions or penalties. The Committee of Experts was formed to facilitate the implementation and implementation of the Paris Agreement and encourage compliance with the agreement. Article 15 of the Paris Agreement emphasizes that no sanctions will be imposed on member countries that withdraw. This is in accordance with the provisions contained in Article 54 of the Vienna Convention Law of Treaties 1969 which regulates the existence of withdrawal or termination from an international agreement, providing an opportunity to be done at any time provided that joint consultations have been carried out with the state parties related to the agreement. In this case, the international agreement does not regulate in detail regarding the procedures or rights for participating countries that will withdraw or even terminate the agreement, so member countries in this case are not permitted to demand termination or unilateral withdrawal, unless there is permission from the state party to the related agreement. Article 62 of the VCLT stipulates that an international agreement may terminate if there is a fundamental change that occurs at the time the agreement was formed and was not foreseen by the member states (*rebus sic stantibus*). The provisions in this article are certainly inconsistent with the statement made by the United States regarding its withdrawal from the Paris Agreement. Although there are no provisions regarding sanctions for member states that withdraw from the Paris Agreement, some countries have criticized the United States' actions. The United States has promised to revitalize the coal industry, which it said has been hampered by environmental regulations. However, after the election of the United States President, Donald Trump, said that the policies in the Paris Agreement weaken competitiveness and damage jobs, as well as the renewable energy industry. The United States President-elect only emphasized the economic costs of mitigation, while downplaying its ecological and economic benefits.

Beyond the formal legal aspects, the United States' decision to withdraw from the Paris Agreement has far-reaching consequences, particularly in relation to the fulfillment of human rights. The UN Human Rights Council has explicitly recognized that climate change is not merely an environmental issue, but also a serious threat to fundamental human rights, including the right to health, the right to adequate housing, and the right to an adequate standard of living. The absence of commitment from one of the largest donor countries, both in terms of funding and technological support, further diminishes the capacity of developing countries to implement mitigation and adaptation.<sup>26</sup>

This situation exacerbates the vulnerability of communities in the Global South, already the most vulnerable to the impacts of climate change. Without adequate financial support, vulnerable groups face escalating risks of natural disasters, environmental pollution that endangers public health, and the pressure of forced migration due to sea-level rise. This phenomenon not only deepens global gaps in adaptive capacity but also reproduces

<sup>25</sup>Naila Sukma Aisyah, "The Dilemma of Indonesia's Position in the Paris Agreement on Climate Change," Indonesian Perspective 4, no. 2 (July–December 2019): 127.

<sup>26</sup>Sam Adelman, "Human Rights in the Paris Agreement: Too Little, Too Late?," Transnational Environmental Law 7, no. 1 (March 2018): 20, <https://doi.org/10.1017/S2047102517000280>

transnational forms of structural injustice. Therefore, the United States' withdrawal cannot be viewed simply as a unilateral political action that undermines the effectiveness of the Paris Agreement. Furthermore, this decision carries serious normative implications, as it indirectly contributes to the violation of universal and non-derogable human rights. This emphasizes that climate policy must be understood not only within the framework of international agreements but also within the perspective of global ethics and the obligation of states to respect, protect, and fulfill fundamental human rights.<sup>27</sup>

The provisions of Article 4 paragraph (2) of the Paris Agreement stipulate that each member country of the agreement is obliged to provide information and/or notification and consistently contribute as has been determined for the benefit of the next period. The parties are obliged to strive for mitigation in their respective countries. Based on the provisions of the article, it is emphasized that the contribution and mitigation process of each country must be notified to public. In other words, the United States has an obligation to carry out its obligations in terms of maintaining its contribution, even though the withdrawal has been considered valid, considering that the withdrawal carried out by the United States was carried out unilaterally. The responsibility for the United States' actions in or out of the Paris Agreement has essentially been regulated in the provisions of Article 28, paragraph 1 of the Paris Agreement, regarding matters that allow member countries to enter or exit the agreement with an agreement from the provisions agreed upon by its members when the Paris Agreement was formed. Therefore, for the objectives of the Paris Agreement to be implemented, each member of the agreement must consistently implement the NDC and must also continue to provide information to the public regarding the environment. Based on this, the United States has a responsibility to do these things because its withdrawal from the Paris Agreement cannot be justified based on the provisions contained in the Paris Agreement and the Vienna Convention Law of Treaties 1969.

#### 4. Conclusions

A country that is bound by an international agreement is regulated in the provisions of Articles 11 to 16 of the VCLT 1969, clearly regarding the ways for a country if it wants to bind itself to an international agreement. The policy of the President of the United States to withdraw from the Paris Agreement was carried out because it felt disadvantaged, as the agreement was considered to hinder economic development and harm the national interests of the United States. The withdrawal of the United States from the Paris Agreement is contrary to the provisions of Article 62 paragraph (1) of the VCLT 1969, which states that withdrawal from an agreement is not permitted if there is a fundamental change in circumstances. This action has an impact on the hampering of the continuity of climate change mitigation due to reduced funding from developed countries. The provisions of Article 54 of the VCLT 1969 do regulate that withdrawal from an international agreement is possible at any time, provided that communication and mutual agreement have been carried out between the participating countries. In addition, Article 28, paragraph (1) of the Paris Agreement also regulates that member countries can leave or re-enter the agreement, according to the agreement formulated

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<sup>27</sup> Andika Putra, "The Role of International Human Rights Law in Fights Against Climate Change," Legal Media Journal 28, no. 2 (December 2021): 153–164, <https://doi.org/10.18196/jmh.v28i2.10988>

at the time of the formation of the Paris Agreement. Therefore, the United States' withdrawal is unjustified, as it contradicts the spirit and primary objectives of the Paris Agreement. Every member country that has agreed to and ratified the agreement is required to consistently implement its NDCs as a commitment to addressing global climate change.

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