

# Justice and International Climate Negotiations

## Objectives:

- ❖ Introduce some basic concepts: commons and justice
- ❖ Provide a brief historical overview of UNFCCC
- ❖ Introduce some of the complex issues of justice in climate change negotiations

# The Main Problems

1. **How to act in the face of difficult, complex and “uncertain” scientific information**
2. **How to comprehend and process an issue whose consequences seem remote in time and place from daily experience**
3. **How to act in the face of an issue that ultimately requires collective global action**

# “Tragedy of the Commons”

Garrett Harden, *Science*, 162 (1968): 1243-1248





“Ruin is the destination towards which all men run, each pursuing his own best interest in a society that believes in the freedom of the commons.”

Solution: “Mutual coercion, mutually agreed upon.”

The atmosphere’s ability to regulate climate is a public good.

The ability of the atmosphere to assimilate wastes (GHGs) while regulating climate has limits.

# Varieties of Justice and Climate Global Change

- ❖ Distributive Justice
  - ❖ Mitigation
  - ❖ Adaptation
- ❖ Intergenerational Justice
- ❖ Environmental Justice
- ❖ Procedural Justice

# Questions of Justice

“The core ethical issue concerning global warming is that of how to allocate the costs and benefits of greenhouse gas emissions and abatement (Gardiner).”

## Some Thoughts on Justice

“Equals should be treated equally, and unequals should be treated unequally.”

“Justice is not simple. It requires judgment.”

“Justice will exist if we act with justice.”

“If the end result of negotiations is not fair then it will not be fully implemented. Little or no mitigation of climate change is then the unfair outcome to those who will have to bear the brunt of the impacts.”



“An unjust law is no law at all.”



# Developing Countries Considerations

Problem: how to allocate future emissions.

Two ways of looking at this:

Historical principle: “Developed countries must compensate developing countries for overuse.”

Common pool resource: Capacity to pollute (use the atmosphere as a CO<sub>2</sub> sink) is limited. Developing countries must now be given their share of the atmospheric commons.

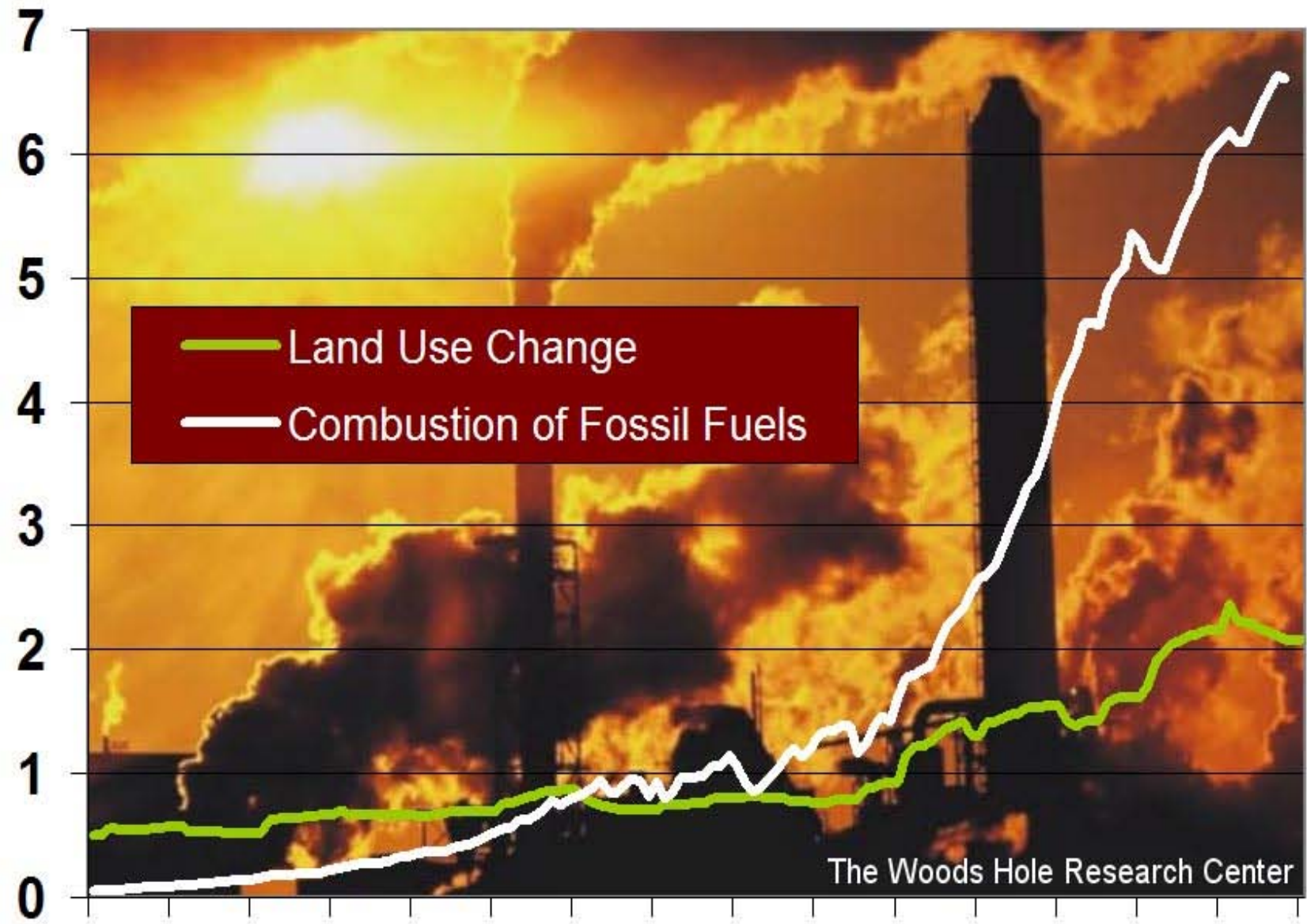
# Three Proposals

- ❖ Historical Responsibility
- ❖ Equal Per Capita Entitlements
- ❖ Priority to the Least Well-Off

# Historical Responsibility

- ❖ Ignorance Defense
- ❖ Overuse Criticism
- ❖ Impractical Criticism

Annual Emissions to the Atmosphere (PgC)



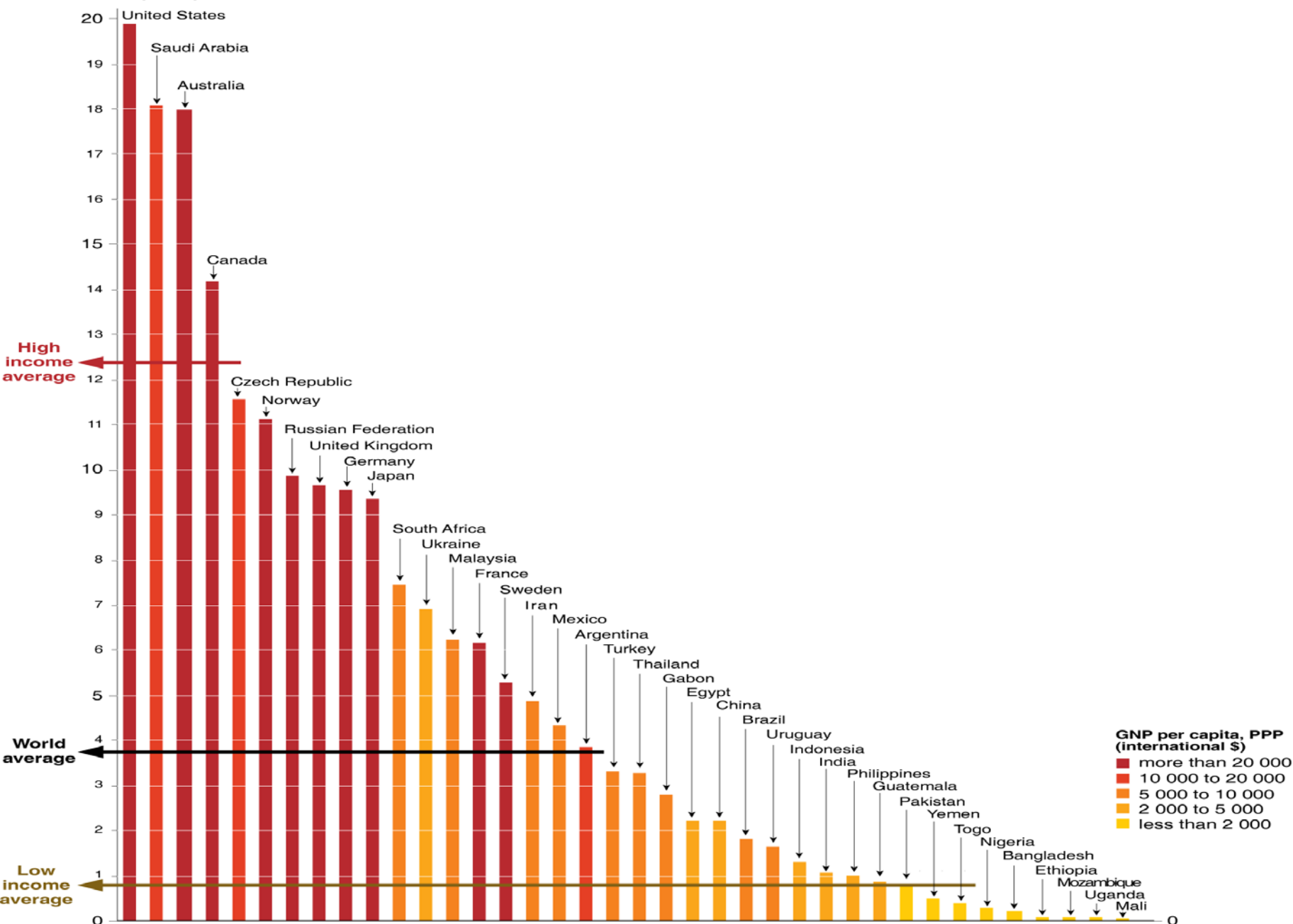
The Woods Hole Research Center

# Equal Per Capita Entitlements

“The central argument for equal per capita rights is that the atmosphere is a global commons, whose use and preservation are essential to human well being (Baer).”

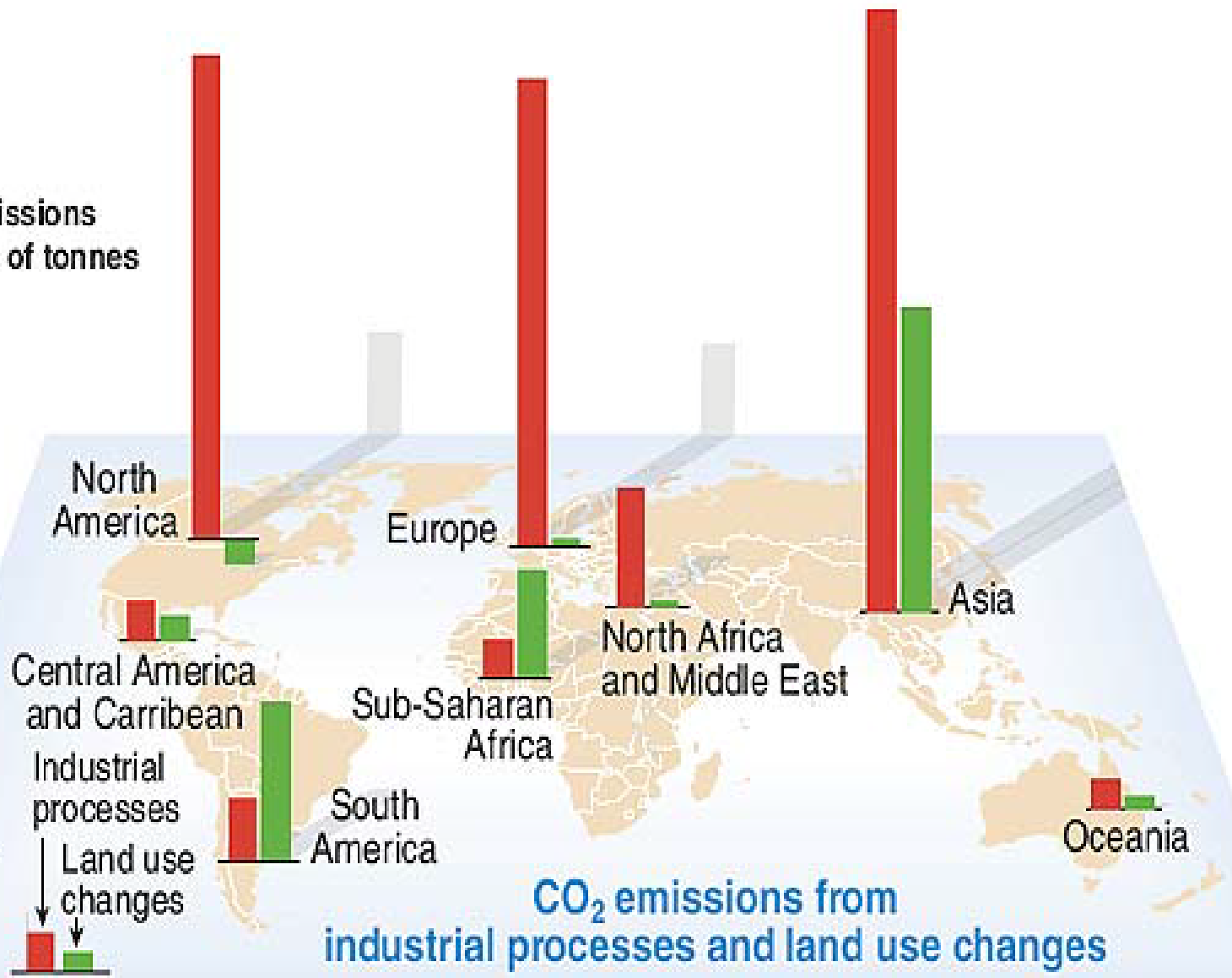
# CO<sub>2</sub> Emissions in 2002

Tonnes per capita



Source : World Bank, online database, 2004.

### CO<sub>2</sub> emissions Millions of tonnes



For industry: IEA, CDIAC, WRI (The Climate Analysis Indicator tools)  
For Land use Change: Houghton, R.A. 2003. "Emissions (and Sinks) of Carbon from Land-Use Change, '94 (Estimates of national sources and sinks of carbon resulting from changes in land use, 1950 to 2000). Report to the World Resources Institute from the Woods Hole Research Center. WRI (The Climate Analysis Indicator tools)

# Least Well-Off



Shafiqul Islam/WFP

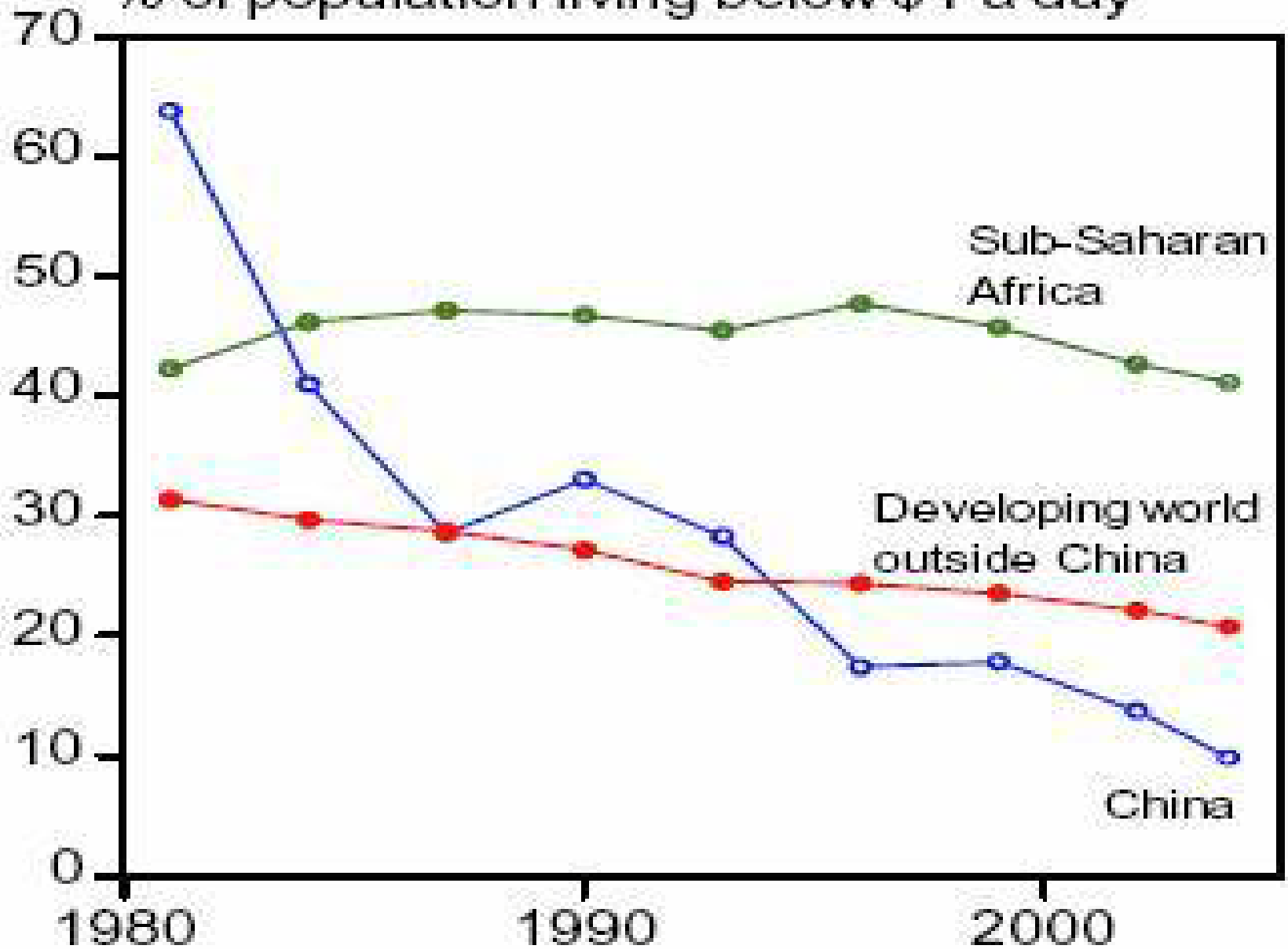


# Climate Change and Sub-Saharan Africa

- ❖ 75-250 million people could face water shortages
- ❖ Agriculture fed by rainfall could drop by 50% in some African counties by 2020 (IPCC Report, 2007)



% of population living below \$1 a day



“China is on track to add 562 coal-fired plants—nearly half the world total of plants expected to come online in the next 8 years. India could add 213 plants and the US 72.”

**The cheapness and security of coal are overwhelming the desire to be clean.**





# UNFCCC

United Nations Framework Convention on  
Climate Change (1992, 192 parties)

## COP

Conference of Parties

# Article 3, 1992 U.N. Framework Convention on Climate Change

“The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effect thereof.”

# Rio Declaration of 1992

"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. When there are threats of serious or irreversible damage, *lack of full scientific certainty* shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

- ❖ Key Words: "serious," "irreversible"  
"damage" "cost-effective"

# Precaution and Burden of Proof

- ❖ It is better to let a guilty person go free than to send an innocent person to jail. Hence, the burden of proof is on the prosecution.
- ❖ The PP says: It is better to lose certain economic benefits than to risk possible consequences of unmitigated climate change. "Better safe than sorry."

# The Three Phases of International Climate Change Negotiations

## Phase I

- ❖ 1992, Rio Earth Summit, United Nations, Framework Convention on Climate Change (FCCC)
- ❖ Annex I countries (industrialized countries) should voluntarily stabilize their emissions at 1990 levels by 2000. Annex II countries (developing countries) should monitor their emissions



# Phase II

- ❖ Kyoto, 1997
- ❖ Binding emission targets are necessary.
- ❖ Kyoto Protocol
- ❖ Annex I countries should accept binding constraints and commit to reducing emissions to 5% below 1990 levels between 2008 and 2012.
- ❖ Two major compromises: it allowed countries to count forest sinks and to meet their commitments through buying unused capacity from others, through permit trading.

Kyoto Protocol (1997) ends in 2012

### Market-based mechanisms

- ❖ Clean Development Mechanisms (CDM)
- ❖ Certified Emission Reduction Credits(CERs)

**Hague, 2000 negotiations brake down  
amidst angry disagreements  
March, 2001, Bush administration  
withdraws support**

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“I’ll tell you one thing I’m not going to do is I’m not going to let the United States carry the burden for cleaning up the world’s air, like the Kyoto Treaty would have done. China and India were exempted from that treaty. I think we need to be more *even handed*.”



The senate passed a resolution 95-0 opposing the ratification of a Kyoto treaty *until developing countries committed to binding emission limits* in the same time frame as the United States.

Phase III: Post-Kyoto  
Bali, COP-13 Bali Road Map  
Poznan, COP-14  
Copenhagen, COP-15 (2<sup>nd</sup> Commitment Period)



# Bali-Roadmap



**“We have a Roadmap!**

**I am delighted to say that we have finally achieved the breakthrough the world has been waiting for: the Bali Roadmap! ...Allow me to close this excitement with appreciations to some remarkable superachievers: to all Parties, *including the USA*, for their flexibility and participation in a spirit of cooperation as reflected in the breakthrough we present now to the world...”**

# Attacks on specific terms of the Kyoto Protocol

The commitments do not require actions by major developing countries (hence, ineffective and unfair (competitive disadvantage))

Major ethical and practical problem: What constitutes a just or fair plan for sharing the burden of mitigation efforts?