
RECONCILING ENVIRONMENTAL SUSTAINABILITY AND HUMAN RIGHTS: TOWARDS CLIMATE JUSTICE

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ABSTRACT

Climate change imposes an unforeseen menace to the environment and human beings. It is currently leading to drought, the deterioration of ecosystems, sea level rise, food scarcity, floods, the displacement and migration of populations, wildfires, and heatwaves on a global scale.¹ The detrimental effects of these issues result in the violations of human rights, including the rights to life, water and sanitation, food, an adequate standard of living, health, housing, and property. In accordance with the United Nations General Assembly report, 150,000 premature deaths are being linked to the climate crisis every year.² The mitigation projects established to lessen the greenhouse gas emissions negatively impact the rights of specific communities, and the failure of implementation of adaptation measures hinders human rights, particularly the vulnerable groups, as some of these adaptation programs may benefit one group and simultaneously harm others.³ This paper explores the gap between current legal and policy frameworks through a comparative analysis of the Paris Agreement, the UN principles, and case studies. It divulges that many climate policies emphasis environmental objectives by oppressing the rights of marginalised groups, which results in unequal burden sharing and access to resources. The recommendations include combining human rights principles into the climate agreements, securing and promoting vulnerable groups through public participation, and stimulating international cooperation to reconcile competing priorities. Through this paper, readers would be able to delve into understanding the balance between the human rights and environmental policies and how the sustainable development recommendations aim to develop a better future.

¹ UN Environment Programme, https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate_Change_and_Human_Rights%20human-rights-climate-change.pdf.pdf?sequence=2& BisAllowed= (last visited Jan. 15, 2025).

² UN Environment Programme, <https://www.unep.org/news-and-stories/story/human-rights-are-threat-climate-change-can-also-provide-solutions> (last visited Jan. 15, 2025).

³ InforMEA, <https://globalpact.informea.org/sites/default/files/documents/HUMAN%20RIGHTS%20AND%20THE%20ENVIRONMENT%20pdf%20lessons.pdf>, (last visited Jan. 18, 2025).

Introduction

The relationship between the environment and human rights has been a topic of discussion for many years. According to Article 1 of the Framework Convention on Climate Change (UNFCCC), climate change means “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods”.⁴ Our planet is currently confronting a significant existential crisis marked by rising desertification, increasing sea levels, ocean acidification, and more erratic weather patterns. These phenomena are direct results of changes in the global atmospheric and oceanic systems, primarily fueled by the surge in greenhouse gas emissions such as carbon dioxide, methane, and nitrous oxide. The majority of these emissions stem from human activities such as the burning of fossil fuels, industrial agricultural practices, and alterations in land use, all of which are exacerbated by economic growth and increasing population. Climate change is already resulting in significant environmental consequences, adversely affecting wildlife, natural resources, and the ecological systems that provide essential human necessities like clean water and food.⁵ The International Labour Organization (ILO) emphasizes that climate change will have a major impact on livelihoods and employment across different economic sectors and regions.⁶ However, it has long been recognized that a clean, healthy and functional environment is integral to the enjoyment of human rights, such as the rights to life, health, food and an adequate standard of living.⁷ Human rights are universal legal protections that safeguard individuals, groups, and communities from actions and inactions that violate their basic freedoms and rights.⁸ They are equal, indivisible, interrelated, and interdependent, meaning they cannot be surrendered or removed. Additionally, human rights are legally enforced and create responsibilities regarding actions and inactions, especially for States and their representatives. These rights are typically articulated and protected within legal systems, constituting treaties, customary international

⁴ United Nations Framework Convention on Climate Change *United Nations Framework Convention on Climate Change* (2019)., <https://unfccc.int/resource/ccsites/zimbab/conven/text/art01.htm>.

⁵ UNEP - UN Environment Programme, *Climate Change and Human Rights- UN Environment Programme* (Dec.2015),<https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/>

*Climate_Change_and_Human_Rights*human-rights-climate-change.pdf.pdf?sequence=2&%3BisAllowed=.
⁶International Labour Organization, *Ensuring safety and health at work in a changing climate* (2024), <https://www.ilo.org/publications/ensuring-safety-and-health-work-changing-climate>.

⁷UNEP - UN Environment Programme, *Climate Change and Human Rights- UN Environment Programme* (Dec.2015),<https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/>

*Climate_Change_and_Human_Rights*human-rights-climate-change.pdf.pdf?sequence=2&%3BisAllowed=.

⁸ OHCHR *Understanding Human Rights and Climate Change*, (2015).

<https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>.

law, general principles among other forms of international law. They are key instruments for human rights protection, such as the Universal Declaration of Human Rights⁹, the International Covenant on Civil and Political Rights¹⁰, the International Covenant on Economic, Social and Cultural Rights, and other instruments.¹¹

Climate Change and Its Impact on Human Rights

Climate change endangers the effective enjoyment not only of the right to life but of a wide range of other human rights of individuals, peoples and communities around the world including, among others, the rights to self-determination, development, food, health, water and sanitation and housing. It is one of the biggest threats to the human rights of both current and future generations. The fifth Assessment Report (AR5) of the Intergovernmental Panel on Climate Change (IPCC) paints a detailed picture of how the observed and projected climatic changes will have negative impacts on millions of people and the ecosystems, natural resources, and physical infrastructure on which they rely.¹² The worldwide acknowledgment of human rights presents important opportunities in the context of climate change. The UN Human Rights Council (HRC) emphasized in resolution 18/22 that human rights obligations, standards, and principles can play a crucial role in shaping and reinforcing policymaking at international, regional, and national levels regarding climate change, thereby improving policy coherence, legitimacy, and sustainable results.¹³

1. Right to water and Sanitation: The United Nations General Assembly has officially marked water and sanitation as human rights because they are primary to achieving every human right. The Committee on Economic Social and Cultural Rights expressed through General Comment No. 15 that every individual has a right to obtain enough safe and affordable water suitable for personal and domestic requirements and accessible through acceptable and safe channels. Climate change threatens the right of people to obtain safe and clean drinking water and accessible sanitation services. Several arid subtropical regions will experience

⁹ United Nations, *Universal Declaration of Human Rights*, United Nations (1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁰ United Nations, *International Covenant on Civil and Political Rights*, (2006), <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>.

¹¹ United Nations Treaty Collection, *International Covenant on Economic, Social and Cultural Rights* (Jan. 3, 1976), https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf

¹² IPCC (2014), *Climate Change 2014 Synthesis Report* (Nov. 1, 2014), https://www.ipcc.ch/site/assets/uploads/2018/05/SYR_AR5_FINAL_full_wcover.pdf.

¹³ UNDOCS, *Resolution adopted by the Human Rights Council 18/22 Human rights and climate change*, (Sept.30, 2011), <https://docs.un.org/en/A/HRC/RES/18/22>

reduced access to renewable surface water as well as groundwater reserves thus generating more competition for water resources. Water scarcity will worsen in cities but water resources depletion in rural areas will become more severe thus affecting both the quantity and transportation of available water. Global warming to 2°C will remove the ability of 1-2 billion people worldwide to access their drinking water resources.

2. **Right to life:** Life, liberty, and personal security are recognized as fundamental rights under the Universal Declaration of Human Rights. Article 6 of the International Covenant on Civil and Political Rights explicitly reaffirms this principle, codifying the inherent right to life for all individuals. Yet systemic vulnerabilities persist: climate-related extreme weather events now heighten risks to global populations, directly causing injury and mortality. Concurrently, elevated temperatures, prolonged droughts, and disease vector expansion amplify fatality rates, a trend corroborated by climate science. A critical insight. One that demands action. According to the Special Rapporteur, air pollution drives roughly 7 million premature deaths annually, with 600,000 children counted among this toll. Food insecurity and resource scarcity, exacerbated by climatic shifts, frequently precipitate political destabilization. Such conditions invariably lead to mass casualties, trauma, and displacement. Projections indicate climate change will contribute to 250,000 additional yearly fatalities by 2030, primarily through malnutrition, malaria, diarrheal diseases, and heat exposure. This underscores the imperative for integrated risk mitigation strategies.

3. **Right to food:** The right to food is enshrined in the Universal Declaration of Human Rights, and in Article 11 of the International Covenant on Economic, Social and Cultural Rights, which affirms the, “fundamental right of everyone to be free from hunger.” Climate change violates this right as climate induced droughts and floods, unpredictable patterns of rain, worsens food insecurity especially in regions dependent on rainfed agriculture. Besides, higher concentration of carbon dioxide in the atmosphere also results in acidification of oceans making coral reefs difficult to grow which in turn decreases fish stocks. The increasing sea levels also leads to water salinization in some coastal locations, making water sources unsuitable for irrigation. These shocks to agricultural and food systems affect the human right to food, and climate change is estimated to put an additional 600 million people at risk of malnutrition by 2080.

4. **Right to a Healthy Environment:** The imperative for a healthy environment as a universal

right was underscored by the Human Rights Council through Resolution 46/7, which revealed that 155 nations have codified this principle across international accords, constitutional frameworks, or domestic policies. A collaborative stance was recently adopted by fifteen UN entities, which jointly advocated for universal recognition of a “Human Right to a Clean, Healthy and Sustainable Environment.” As detailed in their March 2021 statement to the Council, the absence of formal global acknowledgment impedes Sustainable Development Goal attainment, deepens systemic inequities, and generates vulnerabilities for environmental advocates, indigenous communities, and marginalized demographics, groups consistently at the forefront of ecological stewardship. Essential pillars of this right encompass climate stability, breathable air, potable water, effective sanitation systems, sustainably eroded nutrition, and environments free from toxins across residential, occupational, and recreational spaces. The need for a safe climate finds further validation within the UNFCCC framework, wherein signatories commit to averting “dangerous anthropogenic interference with the climate system.” Not only does climate change pose a direct threat to this right, but inadequate state responses to the crisis exacerbate risks disproportionately. This underscores the urgency of aligning policy measures with the Paris Agreement’s targets to prevent irreversible ecological degradation.

5. Right to access to justice: The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other human rights instruments make it clear that all persons who suffer human rights harms are entitled to access to effective remedy. This right to an effective remedy and/or access to justice extends to human rights violations caused by environmental harms and entails access to administrative and judicial proceedings to adjudicate claims of human rights and the provision of compensation or other forms of redress where violations have occurred. Climate change however presents obstacles to the attainment of this right.

6. Right to development: It is recognized in both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which state that all peoples have the right to determine their political status and to pursue their economic, social, and cultural development freely. Furthermore, the Declaration on the Right to Development acknowledges this right as an inherent human right, enabling every individual and community to engage in, contribute to, and benefit from economic, social, cultural, and political progress, where all human rights and fundamental freedoms can be fully realized.

However, the impacts of climate change present a serious challenge to achieving this vital right, and climate action can violate this right if it does not uphold principles of equity, non-discrimination, participation, accountability, and transparency.

7. Right to housing: According to Article 11 of the International Covenant on Economic Social and Cultural Rights every person holds the right to have proper housing. As per international human rights principles every person has an entitlement to obtain sufficient living conditions together with appropriate housing arrangements for themselves and their household members. Other economic social and cultural rights depend on this fundamental right for their execution to be possible. Climate change endangers the right to housing because extreme weather events ruin homes and force big groups of people to move away from their settlements. Droughts alongside flooding and erosion processes transform some areas into uninhabitable environments which produces territorial relocation and population migration until the complete destruction of housing properties in flood zones. Every year climate-related disasters force more than 20 million people to move from their homes thus denying them the right to secure housing.

8. Right to self-determination: Article 1 of the UN Charter calls for respect of the "self-determination of peoples". Further, Common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights states that all peoples have the right of self-determination and by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. Climate change threatens the enjoyment of this right by challenging the lives of individuals and their ways of life and livelihoods, and placing the survival of entire peoples at risk. This includes a broad range of peoples including those impacted by desertification and those in small island developing states whose ability to continue to live on their traditional territory and enjoy and exercise their right to self-determination is interfered with, as sea level rises. The Universal Declaration of Human Rights asserts that every individual is entitled to life, liberty, and personal security. This principle is further emphasized in Article 6 of the International Covenant on Civil and Political Rights, which affirms the inherent right to life for all human beings. Nevertheless, the increasing frequency of extreme weather events linked to climate change poses significant risks to human life, resulting in injuries and fatalities. Climate change also exacerbates mortality rates due to rising temperatures, drought conditions, and the proliferation of diseases. Furthermore, the Special Rapporteur has indicated that air

pollution is responsible for approximately 7 million premature deaths annually, including 600,000 children. Food shortages, famine, and drought can incite political instability and conflict, leading to the deaths, injuries, and displacement of millions. Over the coming years, climate change is expected to contribute to an additional 250,000 deaths each year from malnutrition, malaria, diarrhea, and heat stress alone.

9. Right to meaningful participation: The fundamental right to meaningful participation is enshrined in Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights, which affirm inclusive engagement in governance and public affairs. A critical imperative. Specific legal frameworks further codify this principle for distinct groups: the Convention on the Elimination of All Forms of Discrimination against Women, the Convention of the Rights of the Child, the Convention on the Rights of Persons with Disabilities, and the United Nations Declaration on the Rights of Indigenous Peoples. Not only do these instruments establish protections, but the Declaration on the Right to Development also guarantees equitable involvement in, and benefits from, economic, social, cultural, and political progress. Within climate governance, Article 6 of the UNFCCC mandates that states enable public participation in climate action and response strategies, while Article 12 of the Paris Agreement obligates parties to collaborate on enhancing such engagement. These obligations face compromise when climate impacts remain undisclosed, communications lack accessibility (e.g., through unsuitable language or venues), or stakeholders are denied avenues to voice concerns. An avoidable oversight. To ensure continuity, strategic alignment with these frameworks requires remediating gaps in transparency and inclusivity, a priority underscored by international accountability standards.

Human rights obligations and climate change

State Responsibilities

Recognizing the assertions put forth by rights holders and the obligations of duty bearers, particularly the State's duty to respect, protect, and fulfill human rights, presents a valuable opportunity for human rights-centered strategies to play a crucial role in combating climate change. This approach acknowledges that different events, policies, and programs have varying effects on women, men, girls, and boys, and seeks to address these diverse impacts to ensure that all individuals can equitably enjoy their human rights. Human rights obligations of States include respect for human rights, protection of human rights from violations by third parties,

and fulfilment of human rights. States' human rights obligations require both action from the individual State as well as international cooperation. Domestically, States should enact and enforce laws and policies that uphold their international human rights obligations. With regard to international cooperation, States have an obligation to share resources, knowledge and technology in order to address climate change. Climate assistance must be sufficient, effective and transparent, it must be facilitated through participatory, accountable and non-discriminatory processes, and it must be directed to individuals, groups and peoples that are particularly vulnerable. Insufficient meaningful and informed participation in climate change processes, or a failure to conduct climate change impact assessments, can hinder the enjoyment of human rights. The global response to climate change has been insufficient, particularly in light of the serious human rights issues that stem from inaction. Certain initiatives aimed at mitigating and adapting to climate change have inadvertently resulted in adverse effects on human rights, particularly affecting the most vulnerable groups. In summary, the existing strategies to combat climate change lack the necessary ambition to effectively prevent or mitigate the detrimental impacts on human rights, which remains a fundamental obligation of States and other responsible entities. The HRC has confirmed that human rights obligations and commitments can inform and strengthen international and national policymaking in the field of climate change. This places an obligation on States and other actors to apply a human rights-based approach to policy and development in addressing climate change. This approach has been enshrined in the Declaration on the Right to Development¹⁴ and the UN Common Understanding of a Human Rights-Based approach to Development Cooperation.¹⁵

Climate Change in Human Rights Agreements

The current human rights framework has developed through extensive discussions and compromises. Starting with the adoption of the Universal Declaration of Human Rights in 1948, a range of international human rights instruments has been created, focusing on civil, political, economic, social, and cultural rights. The recognition of these various human rights has been influenced by ongoing dialogue and negotiation. Negotiations are influenced by

¹⁴ United Nations, *Declaration on the Right to Development*, OHCHR (1986), <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-development>.

¹⁵ *The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies*, United Nations Sustainable Development Group, https://unsdg.un.org/sites/default/files/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf.

behind the scenes and formal consultations which address specific country situations and thematic issues. The incorporation of climate change in human rights discourse has been influenced by the advocacy and initiatives of a variety of actors. These include academics, civil society, indigenous peoples, trade unions, and States. The different actors have linked both climate change and human rights, based on their evolving understanding of the effects of climate change on the rights of all persons. The first official global recognition of the connection between climate change and human rights was the seminal United Nations Office of the High Commissioner for Human Rights (OHCHR) report detailing the relationship between climate change and human rights, adopted by the HRC. The International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Universal Declaration of Human Rights are collectively recognized as the 'International Bill of Rights'. There are a number of other regional human rights instruments that were created before climate change was ever recognized as a human rights threat, and they don't mention climate change specifically but outlines the rights and obligations that would apply to climate change. The most recent African charter on Human and People's Rights also contains a specific right to a clean and healthy environment.

The Human Rights Council is the UN's principal inter-governmental body dedicated to the promotion and protection of human rights around the world. It includes special procedures -- independent human rights experts who report and advise on human rights issues, from a thematic or country-specific perspective. Alternatively, they can be a Working Group (WG), made up of five members, or an individual (known as a Special Rapporteur (SR) or Independent Expert (IE)). They make valuable contributions to the inclusion of climate change in human rights actions. A number of States, civil society actors and special procedures mandate-holders have called for the establishment of a Human Rights Council Special Rapporteur on human rights and climate change.

The Human Rights Council serves as the primary inter-governmental entity within the United Nations (UN) that is committed to the promotion and protection of human rights on a global scale. It encompasses special procedures, which are comprised of independent human rights experts responsible for reporting and providing guidance on human rights matters, either from a thematic perspective or related to specific countries. These experts may be individuals, referred to as Special Rapporteurs (SR) or Independent Experts (IE), or they may belong to a Working Group (WG) consisting of five members. Their contributions are vital in

incorporating climate change considerations into human rights frameworks. Numerous States, civil society organizations, and holders of special procedures mandates have called for the establishment of a Special Rapporteur within the Human Rights Council to address the intersection of human rights and climate change.

The Role of National Human Rights Institutions (NHRIs)

National Human Rights Institutions (NHRIs) are vital in advancing and overseeing the application of international human rights standards within countries. They are key players in advocating for a rights-based approach to addressing climate change at the national level. NHRIs are independent public entities that are created and funded by the state, which must guarantee their institutional, personal, and financial independence.¹⁶ NHRIs also contribute to the advocacy and education programs in accordance with the Paris Principles in promoting and protecting human rights in their jurisdiction by receiving complaints and conducting investigations, monitoring and evaluating compliance with human rights, and providing recommendations for reforms as well as potentially taking measures to secure access to justice and the protection of human rights defenders. The OHCHR, via the National Institutions and Regional Mechanisms Section (NIRMS), facilitates the creation and enhancement of National Human Rights Institutions (NHRIs). It collaborates closely with these institutions to assist them in fulfilling their extensive responsibilities related to the promotion and protection of human rights. NHRIs may individually receive and handle complaints about climate change linked human rights violations, undertake education and awareness raising activities on climate change and human rights, report on climate change violations, lobby changes in laws or policies, advise Government to adopt human rights-based approaches to climate change, and monitor the implementation of international conventions and agreements.

Climate Justice from an Indian Perspective

Climate change represents a worldwide challenge that impacts various regions in distinct manners, posing significant difficulties for at-risk communities, particularly in nations such as India. In this context, socio-economic disparities and environmental hazards are closely linked. As a fast-developing country with a vast and varied population, India exemplifies the intricate

¹⁶ German Institute of Human Rights, *Human Rights in Practice Climate Change and Human Rights the Contributions of National Human Rights Institutions. A Handbook*, Center for International Environment Law | CIEL, https://www.ciel.org/wp-content/uploads/2020/12/Climate-Change-and-Human-Rights_final.pdf. (last visited Mar 10, 2025).

nature of climate change and underscores the pressing necessity to address it through a human rights lens. This perspective not only underscores the ethical imperative of protecting vulnerable communities but also emphasizes the legal and moral responsibilities of states and international actors in mitigating climate impacts and ensuring equitable adaptation measures.

Impacts on Vulnerable Populations

Geographic and Environmental Vulnerabilities: Provide an overview of India's geographic and ecological sensitivity to climate change—rising temperatures, erratic rainfall, floods, droughts, sea level rise, and extreme weather events.¹⁷

Impacts on Marginalized Communities: Analyze how climate change disproportionately affects vulnerable populations such as:

- Indigenous communities (Adivasis) and their traditional ways of life
- Rural populations dependent on agriculture, which is increasingly threatened by unpredictable weather patterns¹⁸
- Women, children, and low-income groups who face increased risks due to lack of access to resources and information
- Coastal populations vulnerable to sea-level rise and cyclones

Legal and Policy Frameworks in India

The National Action Plan on Climate Change (NAPCC) was unveiled by the Prime Minister on June 30, 2008. This plan sets forth a national strategy designed to help the country adapt to climate change while promoting ecological sustainability in India's development. It emphasizes that sustaining a high growth rate is crucial for improving the living standards of the majority of India's population and for minimizing their vulnerability to the effects of climate change. The Principles of NAPCC include:

¹⁷ Intergovernmental Panel on Climate Change (IPCC), *Special Report on Global Warming of 1.5°C* (2018) https://www.ccoalition.org/sites/default/files/resources/181008_the_1_5_healthreport_WHO.pdf.

¹⁸ Sharma S, *Environmental Justice in India: Legal and Policy Dimensions*, 47(6) Environmental Policy and Law Journal 153-168.

- Safeguarding the vulnerable by adopting an inclusive and sustainable development approach that takes climate change into account
- Striving for national growth and poverty reduction while maintaining ecological balance
- Implementing efficient and cost-effective strategies for managing end-use demand
- Rapid and widespread adoption of suitable technologies for both adaptation and mitigation
- Developing new and creative market, regulatory, and voluntary frameworks for sustainable development
- Ensuring effective execution through distinctive collaborations with civil society, local government units, and public-private partnerships.

Constitution of India provides a framework that indirectly addresses environmental concerns, primarily through Article 21 and various provisions of the Directive Principles of State Policy (DPSPs).

Article 21 (Right to Life): The expansive interpretation of this Article by the Indian judiciary has been a cornerstone for environmental jurisprudence in India. The Court has consistently interpreted the right to life to include the right to live in an environment free from pollution and environmental harm. Through judicial activism, the right to life has been connected to several environmental issues, including air and water pollution, conservation of biodiversity, and prevention of environmental degradation.

Article 51A(g) (Fundamental Duty of Citizens): This provision, also part of the 42nd Amendment, mandates that it is the duty of every citizen to protect and improve the natural environment, including forests, lakes, rivers, and wildlife. While this provision imposes a moral and civic responsibility on citizens, it encourages active participation in environmental conservation efforts.

Judicial Interventions in Environmental Protection

In *M.C. Mehta v. Union of India*¹⁹, the case involved pollution of the Ganga River, a lifeblood

¹⁹ *M.C. Mehta v. Union of India*, (2022) 6 SCC 221

natural resource in India, and the Supreme Court's attempts to ensure that it is protected. The Court found that Article 21 also guarantees the right to clean water, and pollution of rivers violated this right. Additionally, the court also ordered the government to take strict action against those industries that are dumping waste in Ganga River and stated it would set up special monitoring committees. The judgment affirmed that environmental protection is a fundamental right, reinforcing the need for state accountability in ensuring the cleanliness and sustainability of natural resources.

In *Narmada Bachao Andolan v. Union of India*²⁰, the case pertains to the Sardar Sarovar Dam project on the Narmada River, where there were environmental and social repercussions related to the dam. The Supreme Court reconsidered the question of the forced dislocation of native peoples and the dam's ecological consequences. The Court reiterated the need for development projects to ensure a balancing of economic development with environmental sustainability and human rights. The verdict stressed the right to a clean and healthy environment under Article 21, which, it said, was a guiding factor in calculating the environmental cost of various development projects.

In *State of Tamil Nadu v. K. Balu*²¹, the Supreme Court addressed the issue of illegal sand mining in the state of Tamil Nadu, which had a significant impact on the environment. The Court discussed the state's responsibility to uphold environmental protection and ensure sustainable development. The ruling emphasized that environmental law is intrinsically linked to the fundamental right to life under Article 21 of the Indian Constitution, which includes the right to a healthy environment. The Court also underscored that public authorities have a duty to protect natural resources and prevent exploitation that could harm the environment and public health.

*Re: Threat to Life and Health of Citizens due to Air Pollution in Delhi-NCR*²², dealt with the grave issue of air pollution in Delhi and its impact on public health, especially during the winter months when pollution levels reached hazardous levels. The Supreme Court emphasized that the right to life under Article 21 includes the right to a clean and healthy environment, and air pollution directly infringes on this right. The Court ordered immediate measures to curb pollution, calling for the implementation of stringent air quality standards and the

²⁰ *Narmada Bachao Andolan v. Union of India*, (2021) 3 SCC 267

²¹ *State of Tamil Nadu v. K. Balu*, (2021) 7 SCC 82

²² *Re: Threat to Life and Health of Citizens due to Air Pollution in Delhi-NCR*, (2020) 5 SCC 225

accountability of government authorities in addressing environmental hazards. This case is significant in reinforcing that the right to a healthy environment is an essential part of human rights in India.

Human Rights in Climate Change Negotiations

The negotiation and outcome of international climate change instruments has been based on the understanding of climate change as a global environmental challenge. However, the scientific evidence that climate change is linked to human activities and causes human rights harms necessitates a human rights-based approach to addressing climate change and preventing these harms. Researchers, civil society organizations, faith-based organizations, indigenous peoples, children and youth, States, international human rights mechanisms and the High Commissioner for Human Rights, among others, have all called for human rights to be integrated in the outcomes of climate negotiations. Strategies utilized to influence climate negotiations have included the publishing of open letters calling for the inclusion of human rights in climate agreements²³, the signing by States of pledges such as the 2015 “Geneva Pledge for Human Rights in Climate Action”²⁴, and coordinated calls by non-governmental organizations for the adoption of human rights language in climate agreements. The United Nations Human Rights Council (HRC) has passed multiple resolutions on human rights and climate change (see for instance HRC Resolution 44/7(2020)²⁵, Resolution 42/21(2019)²⁶, Resolution 38/4 (2018)²⁷, which have direct relevance to the climate negotiations. Other United Nations Human Rights mechanisms, such as the special procedures of the Human Rights Council have been actively involved in the climate negotiations. The video below highlights the advocacy of United Nations Human Rights Office (OHCHR) in the lead-up to the twenty-first Conference of Parties in Paris (COP) calling for an agreement that has human rights at its core.

²³ A New Climate Change Agreement Must Include Human Rights Protections for All, (2014), https://www.ohchr.org/Documents/HRBodies/SP/SP_To_UNFCCC.pdf.

²⁴ The Geneva Pledge for Human Rights in Climate Action, (n.d.), <https://carbonmarketwatch.org/wp-content/uploads/2015/02/The-Geneva-Pledge-13FEB2015.pdf> (last visited Mar. 9, 2025).

²⁵ Human Rights Council, *Resolution 44/7*, U.N. Doc. A/HRC/RES/44/7 (2025), available at <https://undocs.org/A/HRC/RES/44/7>.

²⁶ Human Rights Council, *Resolution 41/21*, U.N. Doc. A/HRC/RES/41/21 (2025), available at <https://undocs.org/A/HRC/RES/41/21>.

²⁷ Human Rights Council, *Resolution 38/4*, U.N. Doc. A/HRC/RES/38/4 (2025), available at <https://undocs.org/A/HRC/RES/38/4>.

Incorporating Human Rights in Climate Change Agreements

The United Nations Framework Convention on Climate Change

The United Nations Framework Convention on Climate Change (UNFCCC) achieved adoption on 9 May 1992 before it became effective on 21 March 1994. Although human rights reference is explicitly not noticeable from the document the agreement includes clauses about the social impact of climate change alongside principles of justice which protect human rights.

According to the Convention's goal it aims to maintain atmospheric greenhouse gas levels which will stop human-made climate system disruptions. The Convention states welfare and health impacts from climate change constitute dangerous consequences. Under the Convention States also commit to taking climate change considerations into account, in their relevant social, economic and environmental policies and actions, with a view to minimizing adverse effects of projects or measures undertaken by them to mitigate or adapt to climate change on public health and the quality of the environment. The Convention further states that greenhouse gases should be stabilized in a way that "ensures that food production is not threatened", and acknowledges that "Parties have a right to, and should, promote sustainable development".²⁸

It also does acknowledge public participation in climate change responses and recognizes the principle of equity — the vulnerability of particular groups and countries, including the need to "protect the climate system for the benefit of present and future generations of humankind," and the significance of common but differentiated responsibilities. The Convention through Article 6²⁹ requires Parties to support and coordinate public information access about climate change impacts together with its consequences throughout national domains and suitable sub-regional and regional zones.

Conference of the Parties Decisions Leading to the Kyoto Protocol

Since the adoption of the Convention in 1992, the climate regime has evolved significantly with the link between climate change and human rights more widely recognized, and therefore an increase in implicit and explicit references to human rights in various instruments and decisions. The Conference of Parties (COP) established progressive human rights provisions

²⁸ United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107, https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf.

²⁹ United Nations Framework Convention on Climate Change (UNFCCC), 1992

in their decisions through the Cancun Agreement of 2010 that acknowledged both climate change human rights consequences and the importance of human rights protection in climate actions. Under the Cancun Agreement, the State Parties to the UNFCCC agreed that the “Parties should, in all climate change related actions, fully respect human rights.”

The Cancun Agreement further noted resolution 10/4 of the HRC on human rights and climate change³⁰, which recognizes that the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights. It also notes that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability. The Cancun Agreement also makes note of relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples and contains an Appendix setting out safeguards for reducing emissions from deforestation and forest degradation (the Cancun or REDD safeguards). The safeguards encompass respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, including the United Nations Declaration on the Rights of Indigenous Peoples. The safeguards also call for the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities. The Kyoto Protocol obtained adoption through the Conference of the Parties on December 11th 1997 before becoming effective on February 16th 2005. Human rights receive no explicit mention throughout the contents of the Protocol. By building upon the UNFCCC principles, the Kyoto Protocol maintains the hidden acknowledgment from the Convention toward social elements of climate change and justice. Through caps and reduction commitments of GHG emissions and financial support distribution the Protocol assigns greater responsibility to Annex I countries which have advanced economies because they have generated most of the atmospheric GHG concentrations. Differentiation exists due to common yet varied levels of pollution which depend on nation-specific capabilities. Affiliates under the Kyoto Protocol have accepted a duty to support sustainable development through their requirement to achieve specific targets for greenhouse gas reduction and limitation. Starting in 2011 multiple drafts of the future agreement to replace the Kyoto Protocol incorporated human rights language until its adoption as the Paris Agreement during the negotiations. The continuous growth of climate change and human rights understanding since 1997 led to greater

³⁰ Human Rights Council, *Resolution 10/4*, U.N. Doc. A/HRC/RES/10/4 (n.d.), https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf (last visited Mar. 9, 2025).

human rights prominence in the successor agreement to the Kyoto Protocol.

The Paris Agreement

On December 12th 2015, the Paris Agreement became a reality before its world-wide implementation on November 4th 2016. The Paris Agreement established a crucial point for human rights to enter climate change discussions because it became the first environmental treaty specifically acknowledging this fundamental connection. Increased focus came from HRC mandate holders together with Governments and international bodies such as COP to UNFCCC and civil society organizations and rights holders and indigenous peoples' organizations on human rights and climate change developments.³¹ Different human rights groups organized an active lobbying campaign to add human rights provisions to the Paris Agreement before its adoption. Advocacy efforts sought to make the Paris Agreement both strong and demanding in its greenhouse gas reduction objectives because this matter directly affects human rights protection. The advocacy work and campaigns resulted in the Paris Agreement containing explicit human rights language together with related provisions that protect human rights. The advocacy work and campaigns resulted in the Paris Agreement containing explicit human rights language together with related provisions that protect human rights.

The preamble to the Agreement includes an acknowledgement "that climate change is a common concern of humankind" and that 'Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.' The Paris Agreement also includes provisions on gender equality and participation, sustainable development and poverty eradication. It also acknowledges the specific vulnerabilities of food production systems to the negative effects of climate change as well as the connection between food security and climate action. The operationalization of the Paris Agreement therefore heralds a good opportunity to ensure that climate action respects, promotes and considers human rights. With regard to climate ambition, the Paris Agreement also adopted a 1.5 degree Celsius

³¹ Paris Agreement, Dec. 12, 2015, U.N. Doc. FCCC/CP/2015/L.9/Rev.1, https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

aspirational target, with a hard ceiling of 2 degrees Celsius, setting out an aim to keep “*the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change.*” Under the mandate of the Human Rights and Climate Change Working Group (HR&CC WG) the organization underwent official formation in 2010. The organization serves civil society advocates and experts who aim to enhance climate change human rights awareness while fighting for appropriate remedies for those affected by climate change impacts. While the WG has focused primarily on strategizing around the UNFCCC process, members also use it to share updates and initiate conversations on other relevant themes and processes. The members of the WG include civil society advocates, indigenous peoples’ representatives, scholars and allies in intergovernmental organizations and NHRIs. The WG seeks to operate across the UNFCCC’s constituencies to coordinate advocacy for human rights-based climate action.³²

Vulnerable Groups and Climate Change

People who have been subject to historic and systemic discrimination and/or who are socially, economically, culturally, politically, institutionally, or otherwise marginalized are often especially affected by climate change, meaning they are more susceptible to potential harm and possess fewer resources to adapt. Environmental human rights defenders are important allies in the fight against climate change and environmental degradation and are often subject to reprisals and intimidation. In resolution 40/11 in March 2019, the Human Rights Council affirmed the critical role of environmental activists and human rights defenders in protecting vital ecosystems, addressing climate change, attaining the sustainable development goals and ensuring that no-one is left behind. Article 9 of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement),³³ which entered into force on Earth Day 2021, states that Parties “shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity.” A safe civic space is essential for civil society actors to be able to undertake their work without fear of reprisals, intimidations or

³² Human Rights & Climate Change – Working Group, *About – Human Rights & Climate Change* (2015), <https://climaterights.org/about/>.

³³ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Art.9.

retaliation. Similarly, ecosystems that are particularly vulnerable to climate change or have limited adaptive capacity are subject to very high risks including the risk of collapse or extinction. Human livelihoods and the rights of people who depend on ecosystems experience negative consequences because we fail to protect vulnerable ecosystems that deliver essential services including provisioning food and water and regulating disease control together with cultural benefits and supporting oxygen production.

Indigenous People

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)³⁴ and International Labour Organization (ILO) Convention No. 169³⁵ articulate the individual and collective rights of indigenous peoples. The Paris Agreement highlights that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on the rights of indigenous peoples and calls for participatory adaptation that takes into consideration the traditional knowledge of indigenous peoples.

Indigenous peoples, many of whose way of life is closely tied to their land and natural environment, may be disproportionately affected by climate change. For many indigenous peoples, their lands, resources, and territories are a key element of their spiritual and cultural identity. Due to their close connections to the environment, many indigenous peoples experience direct consequences of climate change. Indigenous peoples are also at greater risk of harm from climate action that is not undertaken in a rights-respecting manner, including impacts by large-scale renewable energy projects. Climate change further exacerbates the difficulties indigenous people face, both individually and collectively, such as political and economic marginalization, loss of land and resources, discrimination, and unemployment.

Decisions should be made in the context of meaningful participation of indigenous peoples. In its Special Report on Climate Change and Land, the Intergovernmental Panel on Climate Change (IPCC) pointed out that attendance of local stakeholders and national level civil society groups improve decision-making and governance. Especially the most vulnerable to climate

³⁴ United Nations, *United Nations Declaration on the Rights of Indigenous Peoples*, U.N. Doc. A/RES/61/295 (Oct. 2, 2007), https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

³⁵ International Labour Organization, *Convention C169 – Indigenous and Tribal Peoples Convention, 1989 (No. 169)* (1989), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C169.

change, including indigenous peoples.³⁶ According to the IPCC, these stakeholders must be included in the selection, evaluation, implementation and monitoring of policy instruments for land-based climate change adaptation and mitigation.

Through their traditional knowledge infrastructure indigenous peoples present solutions which benefit the entire population during times of changing climate. Through its Indigenous Peoples and Local Communities Portal the World Intellectual Property Organization (WIPO) offers specific knowledge resources about indigenous peoples and local communities to the public.³⁷ The WIPO Intergovernmental Committee works on negotiating textual elements to create one or several international legal instruments that protect genetic resources and traditional cultural expressions alongside traditional knowledge.

The COP to the UNFCCC established the Local Communities and Indigenous Peoples Platform to bring indigenous knowledge into climate policy development because their participation is essential for finding solutions.³⁸ The platform expands the work of the UN Permanent Forum³⁹ on Indigenous Issues that previously analyzed climate change effects on indigenous peoples.

Migrants And Nomads

Environmental change operates as a primary factor which drives people to move from place to place. The number of people who experienced displacement within their country because of sudden weather-related disasters reached 24 million annually throughout the decade 2008 to 2018. 12 Additions to this figure are not included for people who relocate because of slower developing events like salinization of freshwater areas and ocean acidification and sea-level rise and glacial ice melting and desertification. The total number of people making relocation choices because of climate change exceeds the estimated statistics. Scientists predict global temperature increases will result in higher numbers of displaced people who engage in internal migration as well as those migrating across borders and in planned relocation. Every person who migrates by necessity because of climate change remains vulnerable to human rights

³⁶ Intergovernmental Panel on Climate Change, *Special Report on Climate Change and Land* (2019), <https://www.ipcc.ch/srccl/>.

³⁷ World Intellectual Property Organization, *Indigenous Peoples and Local Communities Portal* (2019), <https://www.wipo.int/tk/en/indigenous/>.

³⁸ United Nations Framework Convention on Climate Change, *Introduction to the Local Communities and Indigenous Peoples Platform (LCIPP)* (2020), <https://unfccc.int/LCIPP>.

³⁹ United Nations, *UNPFII | United Nations for Indigenous Peoples* (n.d.), <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html> (last visited Mar. 9, 2025).

breaches. The protection of human rights for climate change impacted people requires a climate action and migration policy that safeguards their rights through all phases of their transition.⁴⁰

Migrants have a right to the full range of human rights, as guaranteed by the core international human rights treaties. Also, the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the 1951 Refugee Convention⁴¹ and UN Guiding Principles on Internal Displacement⁴² provide specific protections for particular legal classes of migrants. Among others, the Global Compact for Safe, Orderly and Regular Migration explicitly includes references to addressing climate change as a driver of migration.

Migrants are also recognized in the 2030 Agenda for Sustainable development with Target 10.7 of the Sustainable Development Goals aiming to facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.

The Platform on Disaster Displacement (PDD) developed from the Nansen Initiative and Agenda for the Protection of Cross-Border Displaced Persons to handle migration across borders stemming from climate change.⁴³

The joint study between PDD and OHCHR was developed in 2018 to examine human rights protection for cross-border migrants from climate change slow onset impacts through cooperation with IOM and UNHCR. The study demonstrates that climate change raises pre-existing vulnerabilities among displaced and mobile populations although the interrelations between disasters and human mobility and climate change remain intricate.⁴⁴ The combination of natural hazards with conflict presents specific vulnerabilities that become worse due to existing socio-economic conditions and simultaneous discriminatory patterns. According to the 2020 report by the Special Rapporteur on the human rights of internally displaced persons

⁴⁰ Disaster Displacement, *Disaster Displacement – Towards a Protection Agenda for People Displaced Across Borders in the Context of Disasters and the Effects of Climate Change* (2019), <https://disasterdisplacement.org/>.

⁴¹ Paul Weis, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary* (1951), <https://www.unhcr.org/4ca34be29.pdf>.

⁴² United Nations, *Guiding Principles on Internal Displacement*, U.N. Doc. E/CN.4/1998/53/Add.2 (Feb. 11, 1998), <https://www.unhcr.org/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>.

⁴³ United Nations Environment Programme & Sabin Center for Climate Change Law, *Global Climate Litigation Report: 2020 Status Review* (n.d.), <https://wedocs.unep.org/bitstream/handle/20.500.11822/34818/GCLR.pdf?sequence=1&isAllowed=y>.

⁴⁴ *The Slow Onset Effects of Climate Change and Human Rights Protection for Cross-Border Migrants – Disaster Displacement*, (n.d.), available at <https://disasterdisplacement.org/portfolio-item/slow-onset> (last visited Mar. 10, 2025).

about climate change's slow-onset adverse effects states that "slow-onset processes and related displacement interact with gender, age, ethnicity, socioeconomic status, cultural background and disability which create different impact patterns for these groups as well as magnify existing inequalities and vulnerabilities".⁴⁵

Vulnerable Groups

The UDHR, ICCPR and ICESCR have incorporated the principle of non-discrimination.⁴⁶ Bearing in mind this principle every country needs to establish that its climate change response methods alongside its human rights programs must operate without discrimination. Special protective measures matter under these agreements and others for specified groups which include women and indigenous populations alongside children.⁴⁷ Although the UNFCCC does not mention particular individuals or groups directly it acknowledges that specific countries together with delicate ecosystems deserve targeted climate change adaptation support because of their heightened sensitivity to climate impacts.⁴⁸ The Cancun Agreements establish enhanced guidance regarding how climate change affect individuals whose geographical location makes them vulnerable alongside gender-based climate impact considerations along with protection measures for elderly and indigenous as well as minority and disabled persons.⁴⁹

Women

According to the Cancun Agreements equal gender representation and full female involvement lead to better climate change solutions across all aspects of environmental protection.⁵⁰ The document requires attention to gender-related elements during REDD project implementation.⁵¹ The agreements fail to prescribe obligatory standards which would maintain sufficient women's engagement throughout government climate change decision processes while safeguarding women from discriminatory actions. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) delivers extensive protocols that

⁴⁵ Office of the United Nations High Commissioner for Human Rights (OHCHR), *Report on Internal Displacement in the Context of the Slow-Onset Adverse Effects of Climate Change* (2020), available at https://www.ohchr.org/EN/Issues/IDPersons/Pages/CallforInputs_IDPs_climate_change.aspx.

⁴⁶ ICESCR Art. 2(2); ICCPR Art. 26; UDHR Art. 7.

⁴⁷ UNEP - UN Environment Programme, *Climate Change and Human Rights- UN Environment Programme* (Dec.2015), https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/Climate_Change_and_Human_Rightshuman-rights-climate-change.pdf.pdf?sequence=2&%3BisAllowed=.

⁴⁸ UNFCCC Arts. 3(2), 4(4), 4(10).

⁴⁹ Cancun Agreements (2011), supra note 86, at pp. 7, 12, 18.

⁵⁰ Cancun Agreements (2011), supra note 86, at pp. 7

⁵¹ Cancun Agreements (2011), supra note 86, at pp. 72

protect women against discrimination along with ensuring female participation in public choices.⁵² The Convention offers limited guidance concerning open discrimination because it primarily targets active discrimination instead of discrimination effects that arise from actions directed at women. The Convention provides limited direction regarding state duties concerning the unacceptable effects on women which will result from climate change.

Children

The Cancun Agreements require proper assessment of climate change's adverse consequences for children without establishing guiding instructions about implementation measures. The Convention on the Rights of the Child introduces specific requirements which serve to protect children during climate changes.⁵³ The "right of the child to the enjoyment of the highest attainable standard of health" receives the fullest attention under Article 24 as the provision details how states should achieve this right. The applicable measures which nations must implement state they must fight health concerns and starvation both through basic health care principles while implementing existing technological solutions and providing proper eating food together with contamination-free water alongside environmental pollution risk assessment.⁵⁴ States are required by the CESCR to establish "comprehensive and integrated strategies and programmes" that will deliver safe water resources for generations both present and future.⁵⁵ The Parties have decided under the UNFCCC to protect both present and future generations of humankind by safeguarding the climate system.⁵⁶

Climate Change Litigation and Corporate Accountability

Climate change threatens multiple human rights throughout the world in a severe manner thus endangering both present-day populations and future generations. A worldwide set of rights serves as an essential instrument to tackle this issue. According to Resolution 18/22 from the UN Human Rights Council human rights principles demonstrate extraordinary potential to enhance climate change policy development at every level for creating coherent legitimate and

⁵² UNEP - UN Environment Programme, *Climate Change and Human Rights- UN Environment Programme* (Dec.2015),https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/Climate_Change_and_Human_Rights-human-rights-climate-change.pdf.pdf?sequence=2&%3BisAllowed=

⁵³ Cancun Agreements (2011), *supra* note 86, at Section E (preamble).

⁵⁴ CRC, Art. 25(2)(c).

⁵⁵ CESCR General Comment No. 15, UN Doc. E/C.12/2002/11 (Jan. 20, 2003).

⁵⁶ UNFCCC Art. 3(1).

sustainable results.⁵⁷ A functionally stable climate forms an essential element of the human right to environmental health as well as ecologic health and toxin-free environments while containing rights to environmental involvement and information access and environmental justice systems.

Earlier in 2005 Sheila Watt-Cloutier as representative of 150,000 Inuit members filed a petition with the Inter-American Commission on Human Rights about U.S. greenhouse gas emissions. Sheila Watt-Cloutier maintained the emissions generated by greenhouse gasses created conditions which resulted in unfair treatment of Inuit population whose human rights suffered because of climate change. Even though the Commission rejected the petition because of weak evidence it organized a hearing to understand Inuit community rights challenges from environmental changes thereby increasing global perception of the problem.⁵⁸ Climate change effects should be evaluated through human rights structures to achieve better assessment outcomes. Climate policy and litigation demand human rights principles since this integration leads to fair sustainable programs protecting every individual most especially vulnerable groups suffering from climate change impacts.

Climate change requires a human rights-based approach. Integrating human rights principles into climate policy and litigation ensures more equitable, effective, and sustainable solutions, safeguarding the rights and well-being of all, especially vulnerable communities disproportionately impacted by climate change.

State's Obligations towards Climate Change and Adaptive Measures

The increasing number of lawsuits brought by citizens and NGOs against states and business entities reflect an emerging initiative to achieve and enforce accountability for climate-related actions and omissions. These legal challenges often employ arguments based on human rights obligations, utilizing pre-existing legal frameworks to address the human impacts of climate change. The importance of this kind of litigation is that it can serve as one of the only real mechanisms available to hold states and businesses accountable for their individual failure to protect all human rights from the impacts of climate change. This legal pathway also supports

⁵⁷ Human Rights Council, *Resolution 18/22*, U.N. Doc. A/HRC/RES/18/22 (2025), <https://undocs.org/A/HRC/RES/18/22>.

⁵⁸ Earthjustice, *Inuit Human Rights Petition Filed Over Climate Change* (2022), <https://earthjustice.org/press/2005/inuit-human-rights-petition-filed-over-climate-change>.

the enforcement of climate pledges, leading to greater accountability and transparency from governments and corporations alike.

Different legal and political mechanisms have started to recognize how human rights interact with climate change issues. Different human rights bodies including national institutions and courts as well as other human rights bodies are currently examining state and corporate climate change management practices through human rights claims. In 2018, the Colombian Supreme Court approved a landmark ruling because 25 children and young people proved the government failed to protect their environmental rights thus earning legal recognition for the Amazon ecosystem. The integration of human rights within climate policy sees new developments through climate assemblies and establishment of international bodies like a commission for children and future generations.⁵⁹ In 2019, The Urgenda Foundation won its lawsuit against the Netherlands which established an obligation for governments to prevent dangerous climate change activity. Through their mandate as representatives of 886 citizens the group declared that insufficient emission cuts violated two fundamental human rights protected by European Convention on Human Rights (both Articles 2 & 8). Under Supreme Court orders the government needed to reduce national emissions by at least 25% relative to 1990 levels by 2020. The historic legal decision led the Dutch government to implement immediate climate measures including decreasing coal facilities and funding new initiatives with €3 billion while encouraging worldwide activists to use legal action based on human rights violations regarding climate change.⁶⁰ The United Nations High Commissioner for Human Rights recognized this legal decision as establishing a new model through which climate change litigation can be pursued.

Climate Change Litigation holding Corporate Responsibility

Multiple tools together with mechanisms serve to improve human rights accountability for climate change situations. The UN Guiding Principles on Business and Human Rights

⁵⁹ United Nations Environment Programme & Sabin Center for Climate Change Law, *Global Climate Litigation Report: 2020 Status Review* (n.d.), <https://wedocs.unep.org/bitstream/handle/20.500.11822/34818/GCLR.pdf?sequence=1&isAllowed=y> (last visited Mar. 10, 2025).

⁶⁰ United Nations Environment Programme & Sabin Center for Climate Change Law, *Global Climate Litigation Report: 2020 Status Review* (n.d.), <https://wedocs.unep.org/bitstream/handle/20.500.11822/34818/GCLR.pdf?sequence=1&isAllowed=y> (last visited Mar. 10, 2025).

⁶¹together with the OECD Guidelines for Multinational Enterprises set company human rights obligations while National Contact Points serve as neutrality mediators. ⁶² The 2017 corporate duty of vigilance law passed by France adds another legal framework which facilitates redress for affected parties. The Human Rights Council and Special Rapporteurs and OHCHR and Human Rights Treaty Bodies from worldwide bodies focus their research and reporting activities on the human rights consequences of climate change. Greenpeace Southeast Asia and coalition partners submitted a petition to the Philippine Commission on Human Rights for investigating human rights violations of major carbon producers through climate change alongside ocean acidification effects on Filipinos. Through the petition the group points toward UN Guiding Principles on Business and Human Rights to argue for violations affecting rights related to life, health, food, water, sanitation, housing, self-determination and development particularly against vulnerable populations. After accepting the petition in 2017 the Commission conducted investigations about the matter. In *Luciano Lliuya v. RWE AG*⁶³, A Peruvian farmer submitted a lawsuit against RWE AG for pollution-related greenhouse gas emissions which produced climate change effects responsible for endangering his town with flood risks and demanding the costs of glacier melt protection.

Source Attribution and Remedies Under Climate Change Mitigation

The strategies used in climate litigation cases involve human rights law along with common law doctrines such as tort, nuisance and negligence and statutory and policy aspects in addition to public trust doctrine claims as well as fraud and disclosure failure allegations.

The UN Environment Programme (UNEP) reported in 2020 that its 2017 study revealed climate change litigation provides conventional along with unconventional forms of remedies. The conventional legal remedies available through the court system include statements on contested legalities and prohibitions on selected actions using injunctions together with liability assignments and harm compensation for plaintiffs. The unconventional remedy through national energy and transportation policy changes outlined in injunctions operates on a

⁶¹ United Nations, *Guiding Principles on Business and Human Rights* (2011), available at https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

⁶² Organisation for Economic Co-operation and Development (OECD), *Responsible Business Conduct* (n.d.), available at <https://www.oecd.org/en/topics/policy-issues/responsible-business-conduct.html> (last visited Mar. 10, 2025).

⁶³ Climate Change Litigation, *Luciano Lliuya v. RWE AG* (n.d.), <https://climatecasechart.com/non-us-case/liuya-v-rwe-ag/> (last visited Mar. 10, 2025).

different scale and magnitude than conventional remedies.

Research from 2019 indicates that at least seven countries established their constitutional provisions which specifically address climate change matters. At least 92 countries granted constitutional status to the right of having a clean healthy environment according to research from 2012. The right to environmental protection exists within 177 countries through both constitutional laws and environmental legislation and judicial decisions and international treaty adoption. National courts have pushed forward climate-related cases through willing litigants who drove legal authorities to assess the environmental rights contained in constitutional documents in climate change mitigation matters.⁶⁴

The process of linking a defendant's emissions to overall climate change, known as "source attribution," as well as connecting climate change to specific impacts, referred to as "impact attribution," is crucial in numerous climate litigation cases. This includes lawsuits aimed at compelling national governments to act on climate change and those targeting corporations for their contributions to the issue. In the case of *Smith v. Fonterra Co-Operative Group Limited*⁶⁵, the court noted that the collective emissions of the defendants are negligible when considered against the backdrop of global greenhouse gas emissions responsible for climate change. The court stated that it is these global emissions that are alleged to potentially harm Mr. Smith. Consequently, it concluded that reasonable individuals in the defendants' position could not have anticipated the damages claimed by Mr. Smith. Conversely, courts have determined that emissions linked to various projects, such as individual airport runways, fossil fuel leases, and national vehicle emissions standards, can be deemed sufficient. In these instances, a clear and compelling explanation of how emitters or producers are accountable for a portion of global climate change may be essential to influence the courts in favour of the plaintiffs.

Conclusion

Climate change and responses to climate change will have a profound effect on the exercise of human rights for millions and perhaps billions of people across the world. This will occur through both direct impacts on humans and settlements, as well as through the degradation of

⁶⁴ Disaster Displacement, *Disaster Displacement – Towards a Protection Agenda for People Displaced Across Borders in the Context of Disasters and the Effects of Climate Change* (2019), <https://disasterdisplacement.org/>.

⁶⁵ *Smith v Fonterra Co-Operative Group Ltd*, (2024) NZSC 5

the ecosystems and environmental resources upon which many lives and livelihoods depend. Global crises related, for instance, to climate change, financial systems, conflict and migration have increasingly drawn attention to the interdependence of human rights, development, peace and security, and ecological and planetary well-being. The pursuit of economic growth without adequate measures to promote inclusive, equitable, participatory and environmentally sound development is clearly unsustainable. Indeed, inequality, corruption, mismanagement of public resources and misdirection of public policy priorities fuel civil unrest, and threaten development, sustainability and the realization of all human rights for all. The right to development articulates a vision for transformative development founded on the principles of international law and anchored in international solidarity, the equal participation of all stakeholders, and the fair distribution of income and resources, so that truly sustainable, people-centred development can be achieved.