

ROLE OF CLIMATE CHANGE ISSUES IN THE PROTECTION OF INTERNATIONAL HUMAN RIGHTS

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Annotation

This article delves into the intersection of climate change and international human rights, emphasizing the urgent need for legal and political responses to address the looming threats posed by climate change. It highlights the disproportionate impact of climate change on future generations, emphasizing the potential loss of human rights, including access to essential resources like water and natural sources. The author outlines four key changes in the legal and political landscape that governments must prioritize to achieve intergenerational justice. These include addressing non-compliance with international treaties, emphasizing the importance and necessity of green technology, exploring the politics of providing asylum for climate refugees, and evaluating climate financing approaches. The article suggests that these measures are crucial for mitigating the severity of climate-related catastrophes and ensuring justice for future generations

Introduction

Climate change is one of the most serious concerns that humanity is confronting now, and its consequences will disproportionately mostly affect unborn people. Several millions of people will be losing human rights for life, water and natural sources. Without urgent legal and political responses, it will almost be impossible to safeguard future people from the consequences of climate change. The assignment outlines 4 main changes in legal and political sphere as a priority of current governments to get intergenerational justice. Non-compliance matters with international treaties and importance of and actual need for green technology will be critically analyzed since they seem to be an efficient tool to get implementation of current objectives and to lessen the severity of the climate related catastrophes. Moreover, politics of providing asylum for climate refugees and role of climate financing approaches will also be examined judiciously since they appear to be main actors to deliver justice for future human-kind.

Body part

Global warming is appearing to be one of the most significant concerns which the

world community is confronting this century, as increases in global temperature are resulting in an increment in the occurrence of natural catastrophes, severe weather events, and environmental risks¹. While the immediate effects of climate change are well-documented and debated, their impact on future human-beings receives less media and broad attention, perhaps because of which cultural and ethnic groups would be disproportionately affected². Yet climate change will have a significant impact on intergenerational justice, both directly affecting people's livelihoods and safety as well as indirectly affecting national security and political stability, which might result in armed conflicts for resources³.

“It is clear that urgent actions are needed in environmental politics today. The climate crisis is now acute, with numerous governments declaring emergencies. Anthropogenic pressures on several ‘planetary boundaries’ have created an ‘existential’ risk”⁴.

Many policies and legal frameworks have been issued by international governance to promote environmental sustainability and limit greenhouse gas emissions in order to get intergenerational justice. However, majority of them did not reach targeted results. There are some reasons for inefficient outcomes of current climate policies and laws to which future law makers should focus on.

Firstly, failure to meet requirements of environmental laws and treaties by national politics is one of the main reasons why the world climate is continuously getting damaged irrespective of much broadly attentions for the issue.

The case of non-compliance with relative international treaties has been widely experienced by many countries. Such as, USA appears to be one of the top polluters of world climate. As referred in the statistics of Netherland’s Environmental Assessment Agency, USA contributed to the 13 percent of world emissions in 2018. The root of this large quantity dates back to 2001, because country decided to get withdrawn itself from Kyoto protocol considering protocol to be barrier for the breakthrough of country’s economy. This legally binding treaty was formulated in Japan in 1997 and aimed to lower emissions by 5 percent below 1990’s levels in developed countries. But, the Protocol did not contain some developing countries as China and India, even they were high scale carbon emitters. This, also, should be considered as weak point of the Protocol. Conversely, countries like Germany took Protocol’s speculations into consideration at the time of generating national development strategies and met its requirements as well as got a range of advances in its green technology⁵.

¹ Guy J. Abel, et al., ‘Climate, Conflict and Forced migration’, GEC, (2019), 54, 239-49.

² Leal-Arcas R., ‘Climate Migrants: Legal Options’, *Procedia - Social and Behavioral Sciences*, (2012) 37, 86 – 96

³ Dellmuth, L.M., et al., ‘Intergovernmental organizations and climate security: advancing the research agenda’, *WIREs Clim Change*, (2018), 9, 496,

⁴ Rockström, J. ‘Bounding the planetary future: Why We Need a Great Transition’ (2015), 1 (1) TS

<<https://environmentaljusticetv.wordpress.com/2016/06/08/johan-rockstrom-bounding-the-planetary-future-why-we-need-a-great-transition/>> accessed 20 March 2024

⁵ Respond of US and Germany to Kyoto Protocol is available at: <<https://www.cfr.org/timeline/un-climate-talks>>

The Paris Agreement is regarded by scientists as legal leading climate framework in history. This landmark was reached in Cop₂₁ in Paris and has been ratified by 197 countries. Unlike previous agreement, it compels virtually all nations, both developed and developing, to set emission reduction targets. However, nations are allowed to set their own objectives and enforcement measures are not involved in the Agreement to guarantee that countries meet their targets. Main goal of the document is to maintain global temperature rise under 2 percent. However, President of the USA Donald Trump withdrew his country from the accord in 2017 citing that it brings extraordinary constraints on the country's economy. So, analysts believe that supplementary work needed to be done to get Agreement's entire target.

Such unaccountable behavior has been continuous with further treaties and targets of international conferences. Such as, just before of COP₂₄ in Katowice, Poland, a new IPCC assessment warns of catastrophic repercussions – involving bigger storms and severe heat cycles – if the average global temperature increments over 1.5°C preindustrial levels, which it is predicted to happen by 2030. Despite the report's findings, governments have yet to agree on tougher standards. They do, however, reach a majority of agreement on the regulations for executing the Paris agreement, including how nations should report their emissions. They do not agree on carbon trading standards, meanwhile, postpone the issue until 2019.

Later, In New York, UN Secretary-General Antonio Guterres hosted the UN Climate Action Summit for international leaders. The Paris Agreement requires countries to submit updated NDCs by the next year, therefore the conference provided an opportunity for policymakers to exchange views. However, officials of the world's largest carbon emitters, notably the United States and China, did not participate in the event. Guterres pushed nations to submit plans to decarbonise by 45 percent by 2030 and achieve carbon neutrality by 2050 during the meeting.

These practices show that compliance of countries with international treaties and policies through specification of accountability mechanisms in legal frameworks play an important role to reach its implementation otherwise, there may be a divergence of objectives and actions. It is suffice to state that accountability measures in climate change laws are essential for keeping confidence between and within countries. They clarify the duties of the many parties engaged in enacting and enforcing climate policy. Accountability systems, when applied effectively, may also enable people to ensure that combating climate change is viewed as a priority in the interest of the country. “Accountability mechanisms hold government and business actors responsible for taking action to accomplish climate targets”⁶.

Secondly, since the consequences of climate change are appearing frequently

accessed 21 March 2024

⁶ Higham C, Averchenkova A, ‘Accountability mechanisms in climate change framework laws’ PI (2021), 34

and in many new forms, current laws and politics should also be updated in order to lessen the effects on current and unborn people.

As the world has been experiencing rise in sea-levels, term of “**climate refugees**” is being widely recognized. The number of potential climate migrants has been predicted to be in the hundreds of millions by 2050⁷. Between 2008 and 2014, 184.8 million people endured relocation due to natural catastrophes, weather, and climate change issues⁸. Climate change has a substantial influence on human rights. Extreme heat waves may result in severe drought, thereby limiting access to farming and fishing, which has a negative influence on total resource availability⁹. As a result, poverty and the lack of a source of income might push people into dangerous problems of homelessness, scarcity of land, food and water¹⁰. However, current climate politics and laws keep silence about meeting rights to home, life and clean water of current and future generation. Case of Mr. Teitiota can be one of the facts which shows weakness of climate related politics. The case is as follows, Mr. Teitiota was compelled to relocate from the Kiribati island of Tarawa to New Zealand because sea levels were increasing persistently and causing many other climate related issues. Tarawa's status has grown more unstable and perilous as a result of global warming-induced sea level rise. Three metres above sea level was the height of the country's islands. Soils were unproductive and unemployment reached its high rate. On Tarawa, overpopulation and salt water contamination caused scarcity of fresh water. Efforts to slow the rate of sea level rise have consistently failed. Tarawa's soil has deteriorated, resulting in a lack of houses and several deadly land battles. As a result, Kiribati has devolved into an uncomfortable and violent atmosphere for the Teitiota and his family. Consequently, Mr. Teitiota applied for asylum in New Zealand, but his application was denied by the Immigration and Protection Tribunal. Nonetheless, the Tribunal could not rule out the prospect of environmental deterioration "creating avenues into Refugee Convention or protected person jurisdiction." The author's further appeals involving the same topic were both rejected by the Court of Appeal and the Supreme Court¹¹. When interviewed by the BBC in the months leading up to Teitiota's scheduled deportation, Teitiota's lawyer, Michael Kidd, expressed frustration, saying that “the ruling was made out of fear among richer countries like New Zealand that making allowances for one climate

⁷ M. Mobjörk & L. Simonsson, ‘Klimatförändringar, migration och konflikter: samband och förutsägelser’ FOI, (2011), 9-11

⁸ The Nansen Initiative, Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, (2015), 1(1), 14.

⁹ McInerney-Lankford, et al., ‘Human rights and Climate Change: A Review of the International Legal Dimensions’, Washington D.C: World Bank, (2011), e-book, p. 29 < <https://digitallibrary.un.org/record/707904?ln=en> > Accessed 22 March 2024

¹⁰ Lester E., ‘Work, the Right to Work, and Durable Solutions: A Study on Sierra Leonean Refugees in the Gambia’, IJRL, (2005), 17, p. 387

¹¹ New Zealand v Teitiota Case is available at UN website <<https://www.ohchr.org/en/press-releases/2020/01/historic-un-human-rights-case-opens-door-climate-change-asylum-claims?LangID=E&NewsID=25482>> accessed 28 March 2024

refugee could lead to the allowance of several millions more, relating to a statement made by the judge in one of the earlier rulings”¹². Mr. Kidd has also observed that this form of thinking by New Zealand judges ignores the facts of particular cases and is, unfortunately, based on wrong logic¹³. Teitiota's request was denied because he could not effectively demonstrate that the danger is immediate and specific. If a climate refugee is in fact a refugee under the 1951 Refugee Convention's interpretation, they can get asylum under the same rules as a normal refugee. This is because the court used the same definitions and interpretations as a normal refugee case. Additionally, it is argued that politics influenced the importance of his statements. There is reluctance among richer, primarily white countries to welcome climate refugees, a population that is disproportionately composed of members of vulnerable non-white groups, as Teitiota's lawyer emphasized. This attitude jeopardizes asylum application judges' ability to use a more broad interpretation of the Refugee Convention. Even in the best-case situation, process may be delayed or cancelled. When one considers the trends in the CEAS, where many claims given by refugees are not always handled, it becomes incomprehensible to expect timely processing of individual evaluations on a case-by-case basis. As such, there is by no guarantee that those fleeing homeless will get the international protection they seek. This is what politics need updates and changes to generate proper political response to upcoming climate related problems.

The country of Kiribati is implementing adaptive efforts to mitigate susceptibility and address the negative consequences of climate change, it is obvious that the Teitiota's current condition continues to fall short of the standards of dignity established by the Covenant. The fact that this is also a reality for a large number of individuals in the nation does not make it any more respectable for those who live in such circumstances. New Zealand's approach is more akin to coercing a drowning individual back onto a sinking vessel on the grounds that there are other passengers on board. Even if Kiribati takes all necessary measures to lessen the situation, as long as it continues grave, the lives and dignity of individuals stay at stake. Any law or conventions cannot protect the right to life of Mr. Teitiota and thousands of other unborn generation who will live in such situations. There are some principles as “Polluter should pay”¹⁴ which are not included in laws to force New Zealand or other nations to give asylum to refugees of Kiribati and other climate change victims.

In today's world, not all human rights infractions are necessarily persecution, nor is failing to conduct due diligence¹⁵. It is important to consider since a lack of proactive actions in coping with climate change might result in negative repercussions from

¹² Tim McDonald, 'The man who would be the First Climate Refugee', BBC, Kiribati, 15 November 2015, <<https://www.bbc.com/news/world-asia-34674374>> accessed 28 March 2024

¹³ Ibid

¹⁴ Shue, H. 'Global Environment and International Inequality' International Affairs (1999), 75, 531–545

¹⁵ Alice Edwards, 'International Refugee Law', OUP, (2017), 519.

natural catastrophes or armed conflict. Finally, countries have the primary duty to protect their citizens and may be expected to take protective measures, such as evacuating people from high-risk situations and providing protection to internally displaced people, in accordance with the Guiding Principles on International Displacement (1998)¹⁶.

Thirdly, since the users of energy is perceptibly shifting up year by year as world population is going up, environmentalists consider that world politics should entirely focus on to switch green technology¹⁷. This offers effective response to climate depredation and provides sustainability for living conditions of future human-beings. Industrialization and urbanization continue to emit hazardous and dangerous chemicals into the atmosphere. Also, the constant burning of fossil fuels to fulfill energy needs leads in the release of GHGs. Global energy consumption keeps growing at an alarming pace. Between 2020 and 2050, the predicted rise in energy consumption is 250 quadrillion¹⁸. According to statistics, 85% of the world energy is generated from non-renewable source¹⁹. Energy sources (coal, oil, and gas) have played a significant part in providing global energy needs and will continue to do so. However, fossil fuels have a number of negative consequences. They are the primary source of air pollution and the main producers of carbon dioxide (CO₂) and other carbon emissions. Energy's role in economic and social development must be balanced for the world to decarbonize. Reliance on fossil energy must be minimized to get transition to lower-carbon energy resources. If necessary efforts are not done to hold renewable, green energy sources in order to reduce our reliance on fossil fuel energy sources, we risk running out of resources and the planet becoming inhospitable for humans. Thus, it is critical to use green technologies that are ecologically favorable and do not result in the production of hazardous GHGs into the environment. As the concentration of GHGs in the air increases, long wavelength infrared (IR) radiant heat is reflected and trapped in the atmosphere, heating the ground surface. This is exacerbated further by the eroding ozone layer. In today's world, global warming has already become the most significant challenge that human political, social, and economic structures have ever confronted. The risks are enormous, with great vulnerabilities and threats, economic issues being questioned, science being attacked, governmental issues being severe, psychology perplexing, consequences annihilating, and relationships between environmental and non-environmental issues occurring in

¹⁶ UN High Commissioner for Refugees (UNCHR), 'Climate Change, Natural Disasters and Human Displacement', (2008) 4

¹⁷ Zaffar A. Shaikh 'Towards Sustainable Development: A Review of Green Technologies' (2017) 4 (1)TRI <<http://futureenergysp.com/index.php/tre/article/view/44>> Accessed 30 March 2024

¹⁸ International energy outlook (2019) <<https://www.iea.org/reports/world-energy-outlook-2019>> accessed 30 March 2024

¹⁹ Calderone L, 'What is the future of non-renewable resources' OAEM (2019), 1(1) <<https://www.altenergymag.com/article/2019/07/what-is-the-future-of-non-renewable-resources/31346>> accessed 31 March 2024

multiple directions. Proper policy measures such as green technology must be implemented to address current and future pollution and climate change challenges. The dilemma is whether our solutions should prioritize mitigating its pace and scale by reducing economic activity's carbon emissions or adjusting to its inescapable effects. In this paper, climate change issue is being examined broadly, the risk and hazard associated with GHG emissions and their climatic impacts, global initiatives, conferences, and approaches to preclude climate change effects, including economic, regulatory, land use, and technology methods. It is argued that preventive efforts, which include both mitigation and adaptation measures, are preferable²⁰. However, prevention seems to be main option to environmental sustainability. The optimal strategy for resolving an environmental issue is to avoid its occurrence in the first place. So, green technologies provide a solution to climate change and take the lead in preventing environmental concerns, resulting in a more sustainable environment²¹.

Finally, to get all political affords accomplished and to reach implementation of relative laws, appropriate financial measures by nations should be established.

Intergovernmental Panel on Climate Change (IPCC) recommends that global temperatures must be reduced and limited to two degrees. The IPCC proposes climate change mitigation as a method of achieving these reductions and limits, while simultaneously advocating climate change adaptation as a way of responding to already-existing global warming consequences²². Adaptation and mitigation need large financial resources, making climate finance critical to achieving the IPCC's guideline of a two-degree global temperature rise.

Climate financing aims to assist UNFCCC parties to not only increase their efforts toward a clean energy development route (mitigation), but also, when necessary, to adapt to the inevitable effects of climate change (adaptation). The phrase "climate financing" was created by the UNFCCC on Climate Change in 1994. However, prior Multilateral Environmental Agreements (MEAs), particularly the 1987 Montreal Protocol on Substances that deplete the ozone layer, influenced the design of the UNFCCC's financing component. The Protocol's implementation continues to serve as a model for addressing the financial and technical difficulties that may lead to less-developed nations' non-compliance with MEAs. Previously, the significance of capital in the implementation of MEAs was recognized in Article 7 of the 1972 Stockholm Declaration. During the COP₁₅ summit in Copenhagen, Sweden, poor nations made a strong case for additional support for climate change mitigation and adaptation. This momentum carried over to COP₁₆ in Cancun, Mexico, and then to COP₁₇ in Durban,

²⁰ Olaleru A, 'Green Technology Solution to Global Climate Change Mitigation' (2021), 1 EES
<https://www.researchgate.net/publication/351994863_Green_Technology_Solution_to_Global_Climate_Change_Mitigation> Accessed 2 April 2024

²¹ Ibid

²² Pachauri, R.K and Reisinger, A. (eds.) Climate Change (2007): Fourth Assessment synthesis Report of the IPCC
<http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf> Accessed on 2 April 2024

South Africa, when the decision was reached to create the Global Climate Fund. As a result, it is critical to explore not just the origins of climate funding, but also the framework, considerations, and consequences that climate financing might have on attempts to mitigate climate change.

As referred in the UNFCCC, developed nations must contribute new and extra financial resources to developing nations to cover the agreed-upon entire costs of formulating, implementing, and communicating different national policies²³. This statement has never been disputed at any meeting of the COPs. Additionally, developed nations are obligated to fund the entire additional costs of mitigation measures implemented by poor countries²⁴. Developed nations are also obligated to help underdeveloped countries in paying adaptation expenses²⁵. That is because, there was unanimity among UNFCCC member Parties in 1992 that climate financing refers to developed nations' responsibility for past emissions generated during their process of becoming wealthier, a process that is accountable for current and future climate change²⁶. Therefore, the UNFCCC considers that climate funding for adaptation is certainly compensation for the harm inflicted by wealthy nations throughout their industrialization process and within the framework of the polluter pays principle.

However, even UK climate change act which is often regarded as leading climate change framework law does not include any responsibilities about transferring money into less developed countries for the successful implementation of mitigation measures.

At the Copenhagen climate discussions (2009), wealthy countries promised to provide "scaled-up, new and extra, regular and appropriate finance" in order to achieve" a common objective of mobilizing US\$100 billion each year till 2020 to address the needs of poor countries"²⁷. In December 2020, experts employed by the UN Secretary General stated that the US\$100 billion target would certainly not be accomplished by 2020, even by developed country accounting principles²⁸. Official statistics on 2020 flows are reported in 2022, but if this failure will be verified, it is possible to erode belief between rich and poor nations. Only around 20% of stated climate finance flows to far have been directed toward adaptation; the other part of capital has gone toward greenhouse gas reduction programs. Along with the need for further low-carbon technology to promote clean energy and land-use, additional funding should be directed toward programs reducing susceptibility to growing climate effects and making greater resilience. Developed nations tend to escape basic

²³ UNFCCC, (1994) Article 4.3

²⁴ Ibid, Article 4.3

²⁵ Ibid, Article 4.4

²⁶ UNFCCC, Article 4

²⁷ Copenhagen Accord (UNFCCC) (2009), <<https://unfccc.int/resource/docs/2009/cop15/eng/107.pdf>> accessed 6 April 2024

²⁸ Amar Bhattacharya et al., 'Delivering on the \$100 Billion Climate Finance Commitment and Transforming Climate Finance' (2020). <https://www.un.org/sites/un2.un.org/files/100_billion_climate_finance_report.pdf> accessed 5 April 2024

accountability obligations by exploiting uncertainties in reporting criteria. This demonstrates critical lacks in both procedural and distributive fairness²⁹. These shortcomings in accountability might be solved by establishing clearer and stricter guidelines for what governments can claim as climate funding. The fragmented climate financing system requires coordination and strategic targeting of assistance to the most vulnerable regions and countries in accordance with their local objectives³⁰.

Conclusion

In this assignment, the analyses have been applied about which areas of current politics and law must be changed to get Justice for future generation. As well as, affords made by governments to fight against climate change has been critically analyzed. As the lessons show, non-compliance attitudes by countries must be regulated by strict measures to get effective legal response to the consequences of climate change and to reach the targets of relative international treaties. As well as, as some countries are becoming endangered with prominent sea-level rises, concrete laws should be enacted to meet future unborn people's right for life. A range of coastal countries including Pacific Islands are considered a high-risk location for climate change impact, and the Republic of Kiribati stands a significant danger of being completely uninhabitable over the next decade. This demonstrates a sense of urgency and significant limitations on one's life quality. Providing asylum for climate refugees might appear to be challenging for one country considering its sovereignty but the duty for human dignity does not belong only to one state, but rather the world politics and governance. Furthermore, it is suffice to state that green technology has been considered as an area in which world politics must pay attention. Investments into green innovations and employment will certainly provide appropriate living conditions for future generation. Our research identifies a number of ways in which environmental cleanup might help accelerate the response to environmental deterioration. Although the challenges are significant, there are enormous potential for technical innovation, particularly in the field of green technology, to provide sustainable solutions. Inaction now would be equal to environmental catastrophe. Lastly, as environmentalists noted, climate finance is a crucial tool which keeps all climate policies forward. Future promises and objectives for climate financing should be based on realistic grounds of poor nations' needs and legal speculations. Then, concrete measures must be developed and executed to fulfill those financing objectives. New global financial mechanisms must be established in order to fulfil the promise of 'sufficient and predictable' financing made in Copenhagen. This is necessary since the annual authorized 'contributions' from state treasuries are failing to deliver.

²⁹ Roberts, J.T., Weikmans, R., Robinson, Sa. et al. 'Rebooting a failed promise of climate finance', *Nat.Clim.Chang.* 11, 180–182 (2021) <<https://doi.org/10.1038/s41558-021-00990-2>> Accessed 5 April 2024

³⁰ Ibid

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