

IMPACT ASSESSMENT OF CLIMATE AGREEMENTS ON HUMAN RIGHTS



Dr. Prabjeet Sandhu*
Dr. Manish Bhardwaj**

Abstract

This study examines the influence of international climate agreements on humanity, particularly focusing on their effects on vulnerable communities. It questions the ability of global human rights frameworks to effectively address challenges linked to climate change, especially when these frameworks emphasize protecting individual and governmental freedoms. The paper explores the relationship between environmental regulations and human rights law, with a special focus on the mechanisms involved in climate policy decision-making. While recognizing the role of treaties in promoting environmental justice, the study argues that these agreements often prioritize individual rights over broader national interests. By analysing legal practices in countries such as the USA, Germany, the UK, and Canada, the research highlights the complexities of balancing ecological commitments with legal responsibilities. The paper stresses the critical need for integrated strategies that support both climate adaptation and human rights, advocating for stronger frameworks to address the intersecting vulnerabilities of environmental and social systems.

Keywords: *Climate Change, Human Rights, Climate Agreements, “United Nations Framework Convention on Climate Change” (UNFCCC), Paris Agreement*

INTRODUCTION

The ongoing climate crisis poses a significant ethical challenge in the 21st century. It negatively affects vulnerable communities in both emerging and advanced countries. Its environmental and health consequences threaten fundamental human rights and social equity, including safety, housing, food,

*Assistant Professor, Asian Law College, Noida, U.P.

**Assistant Professor, Law College Dehradun, Uttarakhand University



healthcare, and essential services. Climate change poses a significant threat to the rights outlined in the “International Covenant on Economic, Social, and Cultural Rights” (ICESCR) i.e. Life, culture, religion, language, and socio-economic rights.¹

Climate change jeopardises human rights, especially in developing nations, notably among those residing in rural regions. National governments are obligated to advocate for and safeguard these human rights.² The “United Nations Framework Convention on Climate Change” (UNFCCC) promotes global collaboration to stabilise atmospheric levels of “Green House Gases” (GHGs).³ It underscores the need to uphold human rights in efforts connected to climate change. Human rights considerations must be included in the formulation, execution, and supervision of climate policies, institutions, and processes, according to the UNFCCC.⁴

The following are examples of the negative environmental impacts caused by climate change:⁵

- Temperature and/or heat waves.
- Intense precipitation occurrences.
- Droughts.
- Severe tropical cyclone activity.
- Oceanic elevation.

Alterations to ecosystems, including biodiversity loss, are dire consequences of climate change, along with an increase in airborne chemical pollutants and aeroallergens and a reduction in the size of terrestrial glaciers. Both past and projected changes, as well as the human-caused factors contributing to them, have been thoroughly evaluated by the “Intergovernmental Panel on Climate Change” (IPCC). Climate change and its human-caused com-

¹Anthony J. Langlois (ed.), *Encyclopaedia of International Relations and Global Politics* 418-420 (Routledge, Taylor and Francis, 2005).

²Derek Bell, “Climate Change and Human Rights” 4(3) WIRCC 159-170 (2013).

³Thomas Hickmann, et.al., “The United Nations Framework Convention on Climate Change Secretariat as an Orchestrator in Global Climate Policymaking” 87 *IRAS* 21-38 (2021).

⁴Jane A. Leggett, “The United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement: A Summary” 2 *UNFCC* (2020).

⁵Susannah Willcox, “A Rising Tide: The Implications of Climate Change Inundation for Human Rights and State Sovereignty” 9(1) *EHRR* 1-19 (2012).

⁶Richard P. Allan, et.al., *Intergovernmental Panel on Climate Change (IPCC): Summary for Policymakers* 3-32 (Cambridge University Press, 2023).



ponents are evaluated by the IPCC, an agency of the UN.⁶ Climate change adversely affects health, resulting in heat-related illnesses, vector-borne diseases, malnutrition, respiratory issues such as asthma and allergies, water and foodborne infections, and mental health disorders.

THE RELEVANCE OF HUMAN RIGHTS

A growing number of nations assert the need to diminish greenhouse gas emissions in accordance with international human rights treaties. The perspective suggests that safeguarding human rights within a nation's territorial jurisdiction is intrinsically linked to combating climate change.⁷ States insist on cooperation; however, it is rational for each state, at the individual level, to avoid lower emissions. Litigants often do not possess the legal authority to compel states to fulfil their obligations to combat climate change as outlined in international laws and climate treaties.⁸ International law-based climate litigation frequently references human rights treaties, presenting claims about mitigation responsibilities to national courts, the "European Court of Human Rights" (ECHR), and two treaty organisations.⁹

A. Climate Change Mitigation and Human Rights

Climate change is severely affecting various aspects of human rights, economic access, political rights, personal freedoms, cultural protections, and communal environmental rights because of these consequences, fundamental human rights cannot be fully exercised. Governments have to defend these rights by designing and implementing effective plans to alleviate climate change and adapt to its challenges. Climate change mitigation involves early warning systems and urbanization restrictions in coastal regions. Global collaboration is needed for emissions reduction. Human rights may be affected by the implementation of actions causing breaches, the justification of rights restrictions, and the reallocation of resources.¹⁰ The IPCC expects global consumption to decrease by 1.7 per cent by 2030 and 4.8 per cent by 2100, despite industrialised countries pledging to collectively contribute \$100 billion annually

⁷Ibid

⁸James Hansen, et al., "Perception of Climate Change" 109(37) Proceedings of the National Academy of Sciences 2415-E2423 (2012).

⁹Corina Heri, "Climate Change before the European Court of Human Rights: Capturing Risk, Ill-Treatment, and Vulnerability" 33(3) *EJIL* 925-951 (2022).

¹⁰William Nordhaus, "Climate Change: The Ultimate Challenge for Economics" 109(6) *AER* 1991-2014 (2019).



towards climate financing in 2020.¹¹ Human rights agreements often emphasise the short-term expenses incurred by a state in addressing damage, rather than the enduring advantages that arise from such actions for people, communities, and ecosystems.¹²

B. Benefits of Human Rights Law from a Strategic Perspective

Human rights treaties are essential for nations to address climate change since they are integral to the UNFCCC and the “Paris Agreement, 2015”. States must communicate their “Nationally Determined Contributions” (NDCs) and implement appropriate actions to fulfil their goals.¹³ The Paris Agreement imposes a universal responsibility on each party to develop and execute strategies for climate change mitigation. Nations are obligated to act responsibly to safeguard the interests of other countries, particularly by preventing harm to the environment across borders. The prospect of human rights treaties for climate change mitigation stems from the legal redress they offer through the treaty’s legal avenues. The UNFCCC and the Paris Agreement face significant challenges due to the absence of strong mechanisms to ensure adherence to their commitments.¹⁴ Additionally, international mechanisms for resolving disputes are optional, and nations are generally hesitant to provoke tensions with one another. This reluctance undermines the feasibility of pursuing arbitration or other binding resolutions regarding overarching mitigation responsibilities.¹⁵ The lack of identified victims in human rights treaties may impede individual or group petitions and complaints to regional human rights tribunals. National legal frameworks establish their criteria for standing, potentially facilitating the enforcement of human rights treaties even where identified victims are lacking.¹⁶

¹¹Jim Skea, Priyadarshi Shukla, et al., “Intergovernmental Panel on Climate Change: Transparency and Integrated Assessment Modeling” 12(5) *WIRCC* 727 (2021).

¹²Sumudu Atapattu, *Human Rights Approaches to Climate Change: Challenges and Opportunities* (Routledge, 2015).

¹³Jutta Brunnée, “The Legality of Downgrading Nationally Determined Contributions under the Paris Agreement: Lessons from the US Disengagement” 29(3) *JEL* 537-551 (2017).

¹⁴Mary Kirabui, “The Efficacy of the UNFCCC in Promoting Environmental Security in Africa: A Case of the Paris Agreement in Kenya” PhD diss., University of Nairobi (2020).

¹⁵Benoit Mayer, “Progression Requirements Applicable to State Action on Climate Change Mitigation under Nationally Determined Contributions” 23(3) *IEAPLE* 293-309 (2023).

¹⁶Tracy Bach, “Human Rights in a Climate Changed World: The Impact of COP21, Nationally Determined Contributions, and National Courts” 40 *Vt. L. Rev.* 561 (2015).



IMPLIED MITIGATION OBLIGATIONS

Human rights treaties often do not provide substantial enhancements in the guard of human rights inside a state's territory or authority. The Netherlands' 2020 emission decrease would yield negligible variations in GHG concentration, resulting in limited substantive mitigating effects.¹⁷ While incremental mitigation initiatives could be beneficial if they address the most significant threats to human rights in the 21st century, they often remain limited to their jurisdiction or region, a stark contrast to the global implications of climate change. This issue has been a significant concern in UNFCCC discussions, as each nation prioritizes the protection of its populace above the pursuit of collective interests when addressing climate change.¹⁸ Although climate change mitigation is crucial for safeguarding public health, conserving the environment, ensuring the well-being of future generations, and human rights frameworks predominantly focus on individual rights, overlooking this global challenge. Merely addressing these factors fails to tackle the core issue of territorial limitations. Such agreements continue to prioritize individualistic approaches to human prosperity, human-centred exploitation of natural resources, and a geographically confined understanding of state responsibilities.¹⁹

Human rights treaties serve as a foundation for the rationale behind people's collaboration in addressing climate change, according to three primary arguments. The first argument asserts that human rights treaties entangle climate change initiatives with extraterritorial duties. Secondly, the states must work together to prevent climate change with "collective responsibilities" to safeguard human rights. Thirdly, states are primarily responsible for cooperating worldwide in protecting human rights and mitigating climate change.²⁰

A. Extraterritorial Obligations

One possible outcome of a state's failure to adequately handle climate change is the extraterritorial implementation of human rights accords, according to academic scholars. Certain experts propose broadening the geographical extent

¹⁷P. G. Ruysenaars, L. van der Net, et al., "Greenhouse Gas Emissions in the Netherlands 1990–2020" (2022).

¹⁸Jutta Brunnée, "The UNFCCC as a Negotiation Forum: Towards Common but More Differentiated Responsibilities" 116-134 (Routledge, 2018).

¹⁹Daniel Bodansky, "Introduction: Climate Change and Human Rights: Unpacking the Issues" 38 *GJICL* 511 (2009).

²⁰*Ibid*



of certain treaty commitments, especially with the right to life, to include circumstances when a State directly and reasonably foreseeably wields “power” over an individual’s rights.²¹ IACtHR, 2017 stated that “*persons impacted by transboundary environmental damage may be considered within the effective control of the State of origin*”.²²

B. Collective Obligations

Vindicating climate change is a human rights requirement that necessitates that governments prioritize their national interests while fulfilling their collective responsibilities as members of the international community or treaty parties. Given that only individual legal entities may face accountability for their responsibilities, this notion is unlikely to contradict itself. Climate treaties provide shared goals and principles for mitigating climate change, although they do not enforce joint or community responsibilities. Human rights treaties may imply that nation’s most responsible for climate change may effectively manage catastrophic consequences; nevertheless, it is improbable that any one state has such power. “Article 47 of the Articles on State Responsibility” stipulates that many states may be collectively accountable for a singular violation of international law. According to the International Law Commission, this provision applies only “when several states collectively contribute to conduct that each of them recognizes as a violation of international law.”²³

C. State Cooperation and their Responsibilities

Knox stated that “Article 55 of the UN Charter and the Preamble to the UNFCCC” mandates all nations to collaborate in tackling global issues.²⁴ This requirement creates a mechanism for evaluating duties concerning the protection of human rights in the context of climate change. But it may not be

²¹Chiara Tea Antoniazzi, “Extraterritorial Human Rights Obligations in the Area of Climate Change: Why the European Union Should Take Them Seriously” 2024(2) *EPJLI* 479-511 (2024).

²²Maria Antonia Tigre, “The 2017 Inter-American Court’s Advisory Opinion: Changing the Paradigm for International Environmental Law in the Anthropocene” 12(1) *JHRE* 24-50 (2021).

²³James Crawford, “Articles on responsibility of states for internationally wrongful acts” *UNALIL* (2012).

²⁴John H. Knox “Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment, Report, UN Doc. A/HRC/31/52, on the human rights obligations relating to climate change” (Feb. 1, 2016)



too easy to classify this duty as one that is endorsed by human rights. Article 55 recognises the significance of state collaboration in upholding human rights but does not specifically impose a responsibility to work together to safeguard human rights. Therefore, it can be inferred that climate change mitigation requires partnership under the UN Charter.²⁵

A state must ensure adequate protection of its citizens' rights to be considered a human rights protector. International cooperation can be a beneficial strategy for a state to enhance international outcomes and realize human rights for its citizens. Human rights treaty bodies may see this as an incentive for nations to work together for their benefit, which they strongly disagree with since it suggests governments may be deceitful.²⁶ The duty to interpret and execute treaties in honest faith mandates that states operate with integrity and avoid exploiting others unfairly. This commitment imposes fewer demands on states compared to basic international law requirements, which necessitate that states prioritize international problems above their national interests in a spirit of global collaboration. To fulfil this self-serving duty of collaboration, a state must engage constructively in international climate change mitigation talks and endeavour to restrict or decrease greenhouse gas emissions within its jurisdiction.²⁷

Implied Mitigation Obligations

- A. Systemic Integration**—Treaty interpretation concepts, particularly the idea of systemic integration, are followed in the interpretation of human rights treaties. According to this theory, precedents from various bodies of international law should be considered when interpreting a particular rule of law. “*Article 31(3)(c) of the Vienna Convention*”²⁸ emphasizes that a rule should be considered relevant if it applies to the relations between the parties. Relevance is a crucial principle in human rights interpretation, often used by international

²⁵Benoit Mayer, “Climate Change Mitigation as an Obligation Under Human Rights Treaties?” 115(3) *AJIL* 409–451 (2021).

²⁶Benoit Mayer, *International Law Obligations on Climate Change Mitigation* (Oxford University Press, 2022).

²⁷Walter Kälin & Jörg Künzli, *The Law of International Human Rights Protection* 87 (2nd ed. 2019).

²⁸D. Rosentreter, *Article 31(3)(c) of the Vienna Convention on the Law of Treaties and the Principle of Systemic Integration in International Investment Law and Arbitration*: (2015).



bodies and regional courts. They interpret human rights instruments alongside other treaties, international law, and customary practices. However, it's crucial to distinguish between interpretations prioritizing mitigation over other principles.

B. Incorporation Theory—It holds that where a State is required to perform a mitigation commitment arising out of a human rights treaty, the State is obliged to perform all the general mitigation obligations concurrently as integral parts of the overall obligation. This incorporation idea has not been argued and proven systematically but rather accepted tacitly. When looked at more carefully, it is revealed that it is in contradiction with the rules pertaining to the interpretation of treaties.²⁹

i. Tacit Acceptance—As part of its international legal obligations to protect human rights and the environment, a state may be obligated to take measures to reduce the effects of climate change by a treaty protecting human rights. Ministries of Foreign Affairs asserts that human rights are a fundamental component of governmental commitments that must be upheld in relation to climate change. In its Urgenda decision, the highest court in the Netherlands used the “Vienna Rules” principles on “systemic integration” and the “common ground” approach to human rights law in Europe.³⁰ Treaty organizations mostly adhere to this premise, urging nations to adopt more ambitious obligations for climate change mitigation than those already established under the regime. However, it can be challenging to argue that a policy aligns with the UN climate framework while simultaneously violating the established human rights obligations of states. Certain academics, like Boyle, Nollkaemper, and Burger, criticize the Supreme Court’s approach to Urgenda for conflating law with non-law; however, they do not examine the underlying idea.³¹

ii. Refutation—The incorporation theory is a flawed interpretation method that overlooks the intent of a human rights treaty by focusing on vague obligations. This approach allows unrelated

²⁹Thomas Allmendinger, “The Refutation of the Climate Greenhouse Theory and a Proposal for a Hopeful Alternative” 1(2) *EPCC* 123 (2017).

³⁰Dan Ziebarth, “Climate Law and Human Rights: How Do Courts Treat Rights in Their Decision?” 57 *UICL Rev.* 203 (2023).

³¹Nazibrola Chinchaladze, “Rules on Decarbonization and Human Rights Law” 8(1) *Dialogo* 169-175 (2021).



policies to infiltrate human rights frameworks, diverting focus from their core mission. The inclusion argument shifts focus from safeguarding fundamental rights to addressing global issues like climate change. Treaty interpretation should be based on the agreement's wording and individual case circumstances. Cases like *Urgenda* demonstrate this.³² The level of due diligence required for protecting an interest varies based on its significance. The incorporation doctrine is problematic since it enables courts to circumvent regulations on jurisdiction and admissibility. Generally, international courts and tribunals recognize the independent existence of each rule, despite their convergence or similar wording. Consequently, considering broad mitigation requirements while interpreting human rights treaties does not warrant their inclusion in such accords.³³

C. An Alternative Theory: Windows of Applicability—Human rights treaties impose duties for climate change mitigation; however, their interpretation depends on the treaty's words, context, and purpose. We understand these requirements within the framework of systemic integration, without compromising the overarching mitigation obligations.³⁴ Human rights accords often recognize international cooperation to combat climate change, promoting human well-being and safeguarding future generations' interests. However, from the agreements at the climate level or through customary law, overriding requirements on mitigation consider various benefits such as sustainable development, food security, the integrity of ecosystems, and equity between the generations. Human rights treaties acknowledge the limitations of reducing greenhouse gas emissions and provide limited tools to achieve this goal, aligning with international law's emphasis on preserving human and country rights.³⁵

³²*Urgenda Foundation v. State of the Netherlands* [2015] HAZA C/09/00456689.

³³Adamantia Rachovitsa, "The Principle of Systemic Integration in Human Rights Law" 66 *ICLQ*, 557 (2017).

³⁴"Art. 31(3)(b) Vienna Convention on the Law of Treaties, May 23, 1969, 1155 UNTS 331" (VCLT).

³⁵Benoit Mayer, "Article 4: Mitigation, in *The Paris Agreement on Climate Change* "109, 124-128 (Geert van Calster & Leonie Reins eds., 2021).



“UN GUIDING PRINCIPLES ON ECONOMIC AND HUMAN RIGHTS” (UNGPS) AND CLIMATE CHANGE

Organisations are legally required to act to control certain harms arising from climate change on human rights because human rights are concerned with the matter. The OHCHR of the UN reiterates that the UNGPs present unprecedented global guidance on how to prevent and address Business and human rights especially impacts resulting from climate change.³⁶ Determining the responsibility for greenhouse gas emissions is a challenging task. Although the incorporation of climate change factors for adaptation and mitigation into human resource development has been approved, it is improbable that a firm could be deemed liable for a general “climate change harm.” Recent advancements in climate-attribution research have enhanced the quest for scientifically precise attribution.³⁷

The relationship between climate change to the UNGPs is more than just theoretical; according to some sources, the “Human Rights Due Diligence” (HRD) framework of the UNGPs will include climate change components to a considerable degree. In 2021, the OHCHR released an information sheet elucidating that, according to the UNGPs, enterprises are obligated to uphold human rights, which encompasses not only the avoidance of causing or contributing to harm but also the proactive prevention or mitigation of greenhouse gas emissions and deforestation.³⁸ Social and environmental impact assessment must always be part of the human resource development process, while businesses have the responsibility to support climate adaptation measures. The HRD stakeholder engagement process is the second practical link between climate change and the UNGPs; corporate climate change initiatives should incorporate the information resulting from this process.³⁹

We posit climate due diligence as an intrinsic aspect of HRD, understanding the business obligation to uphold human rights under Pillar II of the UNGPs in conjunction with other legal frameworks, including environmental

³⁶Ian Higham, et al., “Submission to the UN Consultation on Corporate Accountability in the Context of Human Rights and Climate Change” (2024).

³⁷Maria Ivanova, UN Environment Programme 1811-1818 (Springer International Publishing, 2023).

³⁸Liliana Lizarazo-Rodriguez, “The UNGPs on Business and Human Rights and the Greening of Human Rights Litigation: Fishing in Fragmented Waters?” 13(19) *Sustainability*, 10516 (2021).

³⁹Justine Bell-James, “Queensland’s human rights act: A new frontier for Australian climate change litigation?” USNWLJ 3-38 (2020).



and climate legislation.⁴⁰ Akinwumi Ogunranti, “Localizing the UNGPs—An Afrocentric Approach to Interpreting Pillar II” 8(1) *BHRJ* 66-84 (2023).

HRD and climate due diligence are practically analogous, concentrating on risks and repercussions to people or the environment rather than hazards to corporate operations. Both forms of due diligence use a proactive strategy to mitigate risks and damage, with the UNGPS cited as a reference for the development of local legislation.

International Climate Litigation Trends

In recent years, various judicial cases around Europe have significantly relied on “*Articles 2 and 8 of the ECHR*” to contest domestic policies and governmental acts, especially concerning climate change mitigation. Cases like these often evaluate how well national programs comply with human rights obligations or how well they meet the goals outlined in the Paris Agreement. While several cases are still not concluded, significant legal precedents have been established by courts in countries such as Germany and Belgium. Judicial bodies in these two countries have determined that insufficient climate measures by governments violate responsibilities under the ECHR and infringe upon the state’s responsibility to safeguard human rights. These verdicts underscore that governments that inadequately address climate hazards are derelict in their duty to protect persons from the detrimental impacts of climate change.

In “*Neubauer et al. v. Germany*,”⁴¹ the court annulled sections of the “Federal Climate Change Act of 2021, also known as the Bundesklimaschutzgesetz (KSG)”, finding it inconsistent with constitutional safeguards for life and health. The principal concern was the legislation’s inadequacy in establishing adequate emissions reduction objectives beyond 2030, which the court said imposed an inequitable burden on future generations. The court determined that the “shifting” of climatic responsibilities to future generations constituted a breach of basic freedoms. The court based its ruling on the state’s duty to safeguard basic rights and to proactively mitigate anticipated and substantial dangers associated with climate change. Thus, the legislature was mandated to establish more explicit and aggressive carbon reduction objectives for the post-2030 timeframe. In 2022, Germany implemented updated climate laws requiring a 65% decrease in GHG emissions compared to 1990 levels by 2030.⁴²

⁴⁰Akinwumi Ogunranti, "Localizing the UNGPs-An Afrocentric Approach to Interpreting Pillar II" 8(1) *BHRJ* 66-84 (2023).

⁴¹29 April 2021 (Germany).

⁴²Di Wang, “An advanced review of climate change mitigation policies in Germany, France, and the Netherlands” 18(10) *Environmental Research Letters* 103001 (2023).



Notwithstanding this advancement, more problems arose. In “Steinmetz et al. v. Germany (2022)”⁴³, the Court encountered claims that the amended goals were inadequate. The plaintiffs said that the revised climate legislation surpassed Germany’s carbon budget and did not guarantee cooperation among federal states, therefore perpetuating violations of basic rights. This case, although yet unresolved, underscores the ongoing examination of Germany’s climate obligations.

Furthermore, a number of actions against subnational governments challenged their responsibility in setting enforceable mitigation objectives. In 2022, the Federal Constitutional Court eventually combined and rejected these cases, determining that climate action was within the jurisdiction of the federal legislature. State-level courts persist in adjudicating cases that call for enhanced regional climate policy, as shown by the lawsuit filed by “*Deutsche Umwelthilfe (DUH) v. Nordrhein-Westfalen*”.⁴⁴

In the United Kingdom, judicial disputes have also scrutinised governmental climate policies. The notable case, “*Friends of the Earth v. Secretary of State for Business, Energy and Industrial Plan (2022)*”⁴⁵, examined the government’s “Net Zero Plan”. Friends of the Earth requested a court review, contending that the decarbonization strategies for residential and commercial structures did not adhere to the UK’s carbon budget stipulations as outlined in the “Climate Change Act, 2008”.⁴⁶ The organisation also said that the plan failed to fulfil its obligation to assess the effects on vulnerable groups safeguarded by the “Equality Act”, including the elderly, those with disabilities, and ethnic minorities. In July 2022, the High Court adjudicated against the government, determining that the plan was deficient in sufficient facts and rationales to substantiate the achievement of its objectives. The verdict did not denounce the plan’s substance but highlighted procedural deficiencies in the government’s decision-making process.⁴⁷

Legal disputes around climate legislation have also arisen outside of Europe. In “*Environnement JEUnesse v. Procureur Général du Canada*”⁴⁸,

⁴³24 January 2022 (Germany)

⁴⁴8 November 2021 (Germany)

⁴⁵Nos. 22-5036, 22-5037, 22-5067, 24 January 2023 (USA).

⁴⁶Lockwood, Matthew. “The political sustainability of climate policy: The case of the UK Climate Change Act.” 23(5) *Global Environmental Change* 1339-1348 (2013).

⁴⁷Plan B. *Earth and Others v. United Kingdom*, ECtHR, 11 July 2022.

⁴⁸“*Superior Court of Québec, 28 July 2022*” (Canada)



a Canadian environmental organization contended that the federal government's emission reduction objectives and action plans were insufficient to avert perilous climate consequences. The plaintiffs argued that this failure infringed upon the rights of youth as stipulated in the "*Canadian Charter of Rights and Freedoms and the Québec Charter of Rights and Freedoms*". Canadian courts, however, classified these claims as non-justiciable, asserting that they were intrinsically political matters beyond the scope of judicial scrutiny. The Québec Court rejected the application for class certification, and the Supreme Court of Canada subsequently declined to consider the case.

Disputes related to climate change in Brazil took a unique form. A conglomeration of Brazilian civil society groups filed the class action lawsuit "*Laboratório do Observatório do Clima v. Minister of Environment and Brazil*"⁴⁹ against the federal government. The plaintiffs demanded an amendment to the "National Climate Change Policy" (NCCP), aiming to bring it into line with the 1.5°C global warming threshold. The plaintiffs stress the significance of incorporating human rights concepts into climate change goals by arguing that insufficient climate measures endanger the basic right to a healthy environment.⁵⁰

In Uganda, shortcomings in adaptation have resulted in legal action. In "*Tsama William and Others v. Attorney General of Uganda*",⁵¹ victims of the frequent landslides in Bududa District have taken legal action by suing the government for failing to provide adequate safeguards in areas in danger. The plaintiffs said that the government's inaction violated their rights to life, property, and security. In light of the lives lost and property ruined, they sought restitution, relocation, and compensation.

Governments and companies are under heightened legal scrutiny about their climate pledges. Litigation often contests the extent, execution, or enforcement of national and regional mitigation objectives. Judicial bodies have emphasized the need for governments to synchronize their activities with international and national climate commitments. In 2021, two significant incidents in France demonstrated the state's inability to achieve its climate objectives. In "*Notre Affaire à Tous and Others v. France*",⁵² a component of the

⁴⁹"Ação Civil Pública No. 1027282-96.2021.4.01.3200, 13 May 2022" (Brazil).

⁵⁰Emilia Tjernström, "Do differences in attitudes explain differences in national climate change policies?" 65(2) Ecological Economics 315-324 (2008).

⁵¹Miscellaneous Case No. 024 of 2020.

⁵²Nos. 1904967, 1904972, 1904976/4-1, 21 October (France).



“L’Affaire du siècle” campaign, the “Administrative Court of Paris” determined that the French government’s inability to fulfil its carbon budget objectives resulted in ecological harm. The court mandated the government to promptly fulfil its duties under international, European, and French laws by the end of 2022. It also required compensation for any future emissions that are above regulatory limitations. In “*Commune de Grande-Synthe v. France*”,⁵³ the Council of State concluded that the government failed to implement sufficient steps to achieve its mitigation objectives. The court directed the government to undertake specific measures to decrease emissions by 40% by 2030 and instituted continuous compliance monitoring. As governments and corporations worldwide adopt net-zero commitments, legal challenges questioning their sufficiency are likely to increase. People are calling on courts to clarify the balance between political discretion and legal obligations to effectively address climate risks. This growing body of litigation not only holds governments accountable but also serves as a critical tool for strengthening climate governance and ensuring compliance with national, as well as, international commitments.

HANDLING THE CHALLENGE OF CLIMATE CHANGE WITHOUT ENDANGERING HUMAN RIGHTS

We can classify strategies for addressing climate change into two main categories: mitigation (primary prevention) and adaptation (secondary prevention). The “Lancet Commission on Health and Climate Change, 2015” delineates policy measures to maintain global health standards. Efforts at mitigating and adapting must incorporate issues of human rights. Countries and different international agencies must hold governments accountable for protecting these rights. Monitoring systems, multisectoral coordination, and vulnerable person protection are necessary to combat violations. Governments must address current challenges and design more permanent strategies in respect to human rights protection.⁵⁴

Climate change mitigation is crucial for sustainable health-protective measures. Policies and technology can reduce greenhouse gas emissions in the energy, transportation, and agriculture sectors. Renewable energy adoption, reduced fossil fuel use, and increased fuel efficiency can be achieved through energy regulations. Transportation policies can promote active transportation and fuel-efficient vehicles. Carbon dioxide removal from the atmosphere can

⁵³No. 427301, 1 July 2021 (France).

⁵⁴Marc Limon, “Human rights and climate change: Constructing a case for political action” 33 HELR 439 (2009).



be enhanced through forests and land-use regulations. Population growth can also help reduce energy consumption. Preventive strategies also improve public health by promoting safe movement, encouraging physical exercise, and decreasing the risk of cardiovascular diseases.⁵⁵ Mitigation efforts to reduce greenhouse gas emissions may negatively impact disadvantaged communities by reducing agricultural land for biofuels, which may reduce food production acreage and increase food costs. Biofuel policy also affects food grains by linking oilseeds with biodiesel and maize with ethanol, intensifying food insecurity, especially among impoverished populations. Biofuels accounted for 20% to 40% of global food costs in 2011, with ethanol and corn prices interrelated. The US family allocates a smaller percentage of income to food, making low-income individuals in urban areas particularly vulnerable to food price fluctuations.⁵⁶

Rising gasoline costs disproportionately affect impoverished groups, with several families experiencing “fuel poverty.” Unfortunately, these groups are mostly subject to indoor air pollution since they depend on cheaper energy sources like biofuel. An estimated 4.3 million people die annually as a result of indoor pollution caused by inefficient stoves, while the number of dependents on biofuel is as high as 2.4 billion, especially for cooking.⁵⁷ Furthermore, dedicating time to gathering wood or dung for fuel could potentially impede educational opportunities, especially for women. Measures for climate change adaptation seek to mitigate its effects on public health and social systems. Strategic planning for extreme weather events enhances multisectoral preparedness. This, in turn, improves emergency responses and decreases the occurrences of death and disability. Public health monitoring facilitates the early identification of illness patterns, enabling effective control and preventative measures. Marginalized groups, including low-income individuals and indigenous communities, have heightened health impacts and diminished resources as a result of climate change. These groups often lack participation in decision-making, exacerbating existing socioeconomic and health disparities. Consequently, these adaptation techniques are essential to alleviate the adverse results of climate change.⁵⁸

⁵⁵John H. Knox, “Linking human rights and climate change at the United Nations” 33 *HELR* 477 (2009).

⁵⁶Sara C. Aminzadeh, “A Moral Imperative: The Human Rights Implications of Climate Change” 30 *HCLR* 231 (2007).

⁵⁷Hen-I Lin, et al., “Status of Food Security in East and Southeast Asia and Challenges of Climate Change.” 10(3) *Climate* 40 (2022).

⁵⁸*Ibid*



Climate change adaptation methods must not pose hazards to others, as air conditioning can increase outdoor heat exposure. Populations vary in their ability to adapt to similar threats, with the Netherlands having a superior capability to adapt to sea level rise. Adaptation strategies have distinct impacts on human rights, such as ecological strategies like mangrove cultivation for storm surge mitigation. Mangroves protect wetlands and marine food webs, supporting local fisheries, and construction of seawalls may jeopardize fishermen's livelihoods. Considerations of potential adverse effects on future generations shape the discourse over the present generation's financial allocation for climate change mitigation. Some argue that preserving life in the present is more valuable than future protection, while others argue that we should prioritize the health and welfare of future generations. Economists Nicholas Stern and William Nordhaus emphasize the importance of addressing the needs of both present and future generations in climate change mitigation.

CONCLUSION

Climate change and human rights is a fundamental problem that requires global strategic and impartial solutions that can only be directed from Washington. This paper has depicted how environmental sustainability and protection of basic human rights are entangled and the need to advance climate policies that manoeuvres them between short-term carbon reduction actions and long-term equity implications. There are already formulated frameworks in international politics like the UNFCCC and the Paris Agreement but these have strength and structure connected issues with little extent of effectiveness on the aspect of enforcement and global responsibility. Although human rights treaties designate both international and state duties to protect life and human dignity, the former often does not bear extraterritorial dimensions limiting effective global cooperation. Some basis in law is beginning to surface as more national and regional judiciaries equate climate change with human rights. In 2024 Switzerland set the precedent that lack of adequate climate measures is a violation of rights. Nonetheless, such judicial actions are sporadic and geographically dispersed or dispersed by the jurisdiction, which demonstrates more comprehensive defects in existing legal systems to address transnational/transgenerational issues. Even when addressing such calls for adaptation and mitigation, the focus may hierarchically widen socioeconomic inequalities if not anchored on human rights. For instance, renewable energy projects may cause tensions that may hurt Indigenous people, not to mention the failure to meet the environmental objectives. Given these considerations, it is nec-



essary to elaborate on human rights as a regulative ideal of climate regulation. This makes it crucial to design and implement intensive, sanctionable measures that link environmental policies with the main principles of social justice so that it is possible to safeguard minorities, but also strengthen them. In addition, trade unions working for energy sector reform must support the rights-based approaches to fair transition and upholding social justice while embracing and acting in partnership with affected communities. Only through collective, inclusive, and legally fortified action can humanity navigate the dual crises of climate change and human rights degradation, ensuring a sustainable and equitable future for all.