

Is Climate Change Becoming Threats to Human Rights? Brief Study on Climate Change and its Litigation

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Climate change is the single biggest thing that humans have ever done on this planet. The one thing that needs to be bigger is our movement to stop it.

- Bill Mckibben

Abstract: Many people think of global warming and climate change as synonyms, but scientists prefer to use “climate change” when describing the complex shifts now affecting our planet’s weather and climate systems. Climate change encompasses not only rising average temperatures but also extreme weather events, shifting wildlife populations and habitats, rising seas, and a range of other impacts. All of these changes are emerging as humans continue to add heat-trapping greenhouse gases to the atmosphere. Human rights express the entitlement of all people to be treated equally, to live their life in safety and freedom, and to be protected by their government. So many of our human rights, such as right to life, health, food, and an adequate standard of living, are adversely affected by climate change. This article examines several cross-cutting issues that present challenges for potential litigants across the broad spectrum of climate change litigation. They include problems of proof, of dealing with cumulative and indirect impacts, and of establishing a significant contribution to global warming, as well as issues surrounding the respective roles of courts and legislatures in developing a regulatory response to the problem of climate change.

Keywords: Climate change, Evidence for climate change, Causes, Litigations, Human rights.

1. Introduction

Over the past decades a climate justice movement has boomed across the world. A United Nations Environment Program (UNEP) [1] report details that, as of March 2017, there were more than 654 cases filed in the United States and, using a larger definition of climate litigation, over 230 cases brought in other countries. More and more cases like this are being filed around the world at a phenomenal speed. Climate justice is the fulfillment of human rights in the face of climate change. It is a process of addressing the climate crisis as a human rights crisis and using the court of law to hold corporations and governments accountable. Fossil fuel corporations cannot continue to act with impunity, caring only for profit, and governments can no longer ignore the connection between their duty to protect human rights and climate change. Through Climate Justice finding new ways of living and existing is not only possible but imperative.

Human rights and climate change analysis focuses on the anticipated consequences to humans associated with global environmental phenomena including sea level rise, desertification, temperature increases, extreme weather events, and changes in precipitation, as well as adaptation and mitigation measures taken by governments in response to those phenomena that may involve human rights or related legal protections.

Climate change is inducing not only ecological adjustments, but is also impacting the social, economic, political, cultural and legal aspects of societies around the world. The HRC has affirmed that human rights obligations have the ability to strengthen both international and national policy-making in the area of climate change. The 1972 Stockholm

Declaration provided the basis for further elaboration of a human right to environmental quality. [2]

2. What is Climate Change?

Climate change describes a change in the average conditions — such as temperature and rainfall — in a region over a long period of time. For example, 20,000 years ago, much of the United States was covered in glaciers. In the United States today, we have a warmer climate and fewer glaciers.

Global climate change refers to the average long-term changes over the entire Earth. These include warming temperatures and changes in precipitation, as well as the effects of Earth’s warming, such as:

- Rising sea levels
- Shrinking mountain glaciers
- Ice melting at a faster rate than usual in Greenland, Antarctica and the Arctic
- Changes in flower and plant blooming times.

2.1 Evidence for climate change

All historical sciences share a problem: As they probe farther back in time, they become more reliant on fragmentary and indirect evidence. Earth system history is no exception. High-quality instrumental records spanning the past century exist for most parts of the world, but the records become sparse in the 19th century, and few records predate the late 18th century. Fortunately, climatic change also leaves a variety of signatures in the natural world. Climate influences the growth of trees and corals, the abundance and geographic distribution of plant and animal species, the chemistry of oceans and lakes, the accumulation of ice in cold regions, and the erosion and deposition of

materials on Earth's surface. Pale climatologists study the traces of these effects, devising clever and subtle ways to obtain information about past climates. New sources of data, analytical tools, and instruments are becoming available, and the field is moving quickly.

2.2 What are the causes of climate change?

The American Association for the Advancement of Science has stated, "The scientific evidence is clear: global climate change caused by human activities is occurring now, and it is a growing threat to society." [3]

Below are a few of the ways humans are accelerating climate change:

- Greenhouse gases.
- Solar activity
- Agriculture
- Deforestation
- Human Activity
- Livestock.

2.3 India: Climate Change Impacts

To better understand the risks of climate change to development, the World Bank Group commissioned the Potsdam Institute for Climate Impact Research and Climate Analytics to look at the likely impacts of temperature increases from 2°C to 4°C in three regions. The scientists used the best available evidence and supplemented it with advanced computer simulations to arrive at likely impacts on agriculture, water resources, cities and coastal ecosystems in South Asia, South East Asia and Sub-Saharan Africa. [4]

In 1992, the UN Conference on Environment and Development (UNCED) at Rio de Janeiro led to FCCC (Framework Convention on Climate Change), which laid the framework for the eventual stabilization of greenhouse gases in the atmosphere, recognizing the common but differentiated responsibilities and respective capabilities, and social and economic conditions.

2.4 Climate Change Litigation in India

In the last few decades, there has been a growth of national and international responses to climate change in terms of international covenants, laws and policies. These laws have vested rights on the citizen and imposed correlative duties on the state. Many citizens have turned towards judiciary for redressed of climate change issues through lawsuits/petitions which are referred as 'climate change litigation'. [5] The failure of the state in its duty so imposed under the law, *inter alia*, has been the subject-matter of 'climate change litigation.'

The objective of 'climate change litigation' is attribution of liability on persons or entities responsible for greenhouse gas emissions that contribute to climate change in a significant manner. This exercise involves the following process; first, the plaintiff has to establish her standing in the case. Second, the defendant should be a party appropriate to seek redressed and last, there must be an appropriate forum before which an action can be brought. [6] These issues are

pertinent where redressed is sought through law-suits, which have a technical character depending upon the civil procedural laws of various states. Various countries such as India and Pakistan have a unique method of Public Interest Litigation, where the requirement of 'standing' has been relaxed. In many jurisdictions, climate change litigation is still at a nascent stage. The Supreme Court has addressed climate change concerns in at least two ways – examining international standards for policy purpose, and ordering studies of environmental impact of the public projects.

In **Karnataka Industrial Areas Development Board v. Sri C. Kenchappa**, [7] a number farmers and agriculturist, whose land had been acquired by the government, filed a petition restraining the government from converting their land for industrial purpose. The Supreme Court, among other pressing environmental concerns have taken note of climate change concern. The court ordered authorities to appropriately study the adverse impact of the project on the environment and impact on ozone depletion and climate.

2.5 Is climate change becoming threats to human rights?

Integrating climate change and human rights have become more important in the recent years. The United Nations Human Rights Council issued a resolution on March 2008, which stated that "climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights

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Right to life:

The right to life is protected by Article 6 of the ICCPR where every human being has the inherent right to life. The right to life is inextricably linked to the measure of fulfillment of other rights. There are both projected and observed effects that climate change will have on the right to life.

Right to food

This is derived from Article II of the ICESCR where States party to the Covenant has to maximize their available resources to achieve the right to adequate food. [9] Climate change is going to affect all four pillars of food security; availability, access, utilization and stability. A 2008 report by the Special Reporter on the right to food has stated that the way the world grows food will have to undergo radical change to cope with a growing population and the effects of climate change, while avoiding environmental collapse. [10] The Paris Agreement recognizes the fundamental priority of ensuring food security and the particular vulnerabilities of food production systems to the adverse impacts of climate change. [11]

Right to water:

The Committee on Economic, Social and Cultural Rights (CESCR) notes that the right to water is not only an essential condition to survival, but also that it is inextricably linked with other rights, such as; housing, attainable standard of health, adequate standard of living, and right to food

Right to health

Article 12 of the ICESCR identifies the "right to the highest attainable standard of physical and mental health". [12] Most national constitutions protect the right to health in some manner, and it is widely safeguarded in other international and regional instruments. Climate change is going to amplify health disparities between the rich and poor in different parts of the world. The World Health Organization (WHO) estimates that since 1970, climate change is responsible for 150,000 deaths every year through increasing incidence in the spread of diarrhea, malaria and malnutrition predominantly in Africa and other developing regions.

3. Conclusion

Climate change is expected to affect the human well being in many different ways such as capital, ecosystem, disease and migration. Irrespective of the importance of the issue, it is not clear how to compute the value with the current state of the art of economics. A meaningful development involves at least transformation from agricultural to a nonagricultural economy reducing the dependence on agriculture. In the context of the current debate about climate change, it is necessary to show, far from being inactive in India, that considerable actions in terms of policies, programs and projects are being taken.

Climate change litigation can be brought within the ambit of various legislative frameworks such as international law, constitutional provisions, statutes, or common law. In certain cases, a combination of these laws would be required for providing legal basis for the litigants. The citizens can sue the regulators for any instance of non-compliance on the climate change mitigation commitments where the statute has authorized them to do so.

Therefore, the policy makers, the courts and the regulators need to work in tandem in order to ensure that climate justice is rendered.

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