

# Forging the Nexus of Climate Change and Human Rights

Kujo E. McDave and Palmer P. Dagadu

## ABSTRACT

The impact of climate change on human rights is a serious worry for the global community and is receiving more attention from both policymakers and researchers. However, information in this sector is sparse and fragmented. In an effort to highlight the difficulties facing humanity due to climatic factors, this article examines the rising emphasis given to human rights principles. It examines the linkages between human rights and legal responses to climate change and argued that certain connections exist between the two. The extent to which the international system sufficiently safeguards the human rights of those who are negatively impacted by climate change is examined. In conclusion, it makes suggestions for enhancing the protection of human rights in the context of climate change.

**Keywords:** climate change, displacement, human right, violation.

**Published Online:** January 16, 2023

**ISSN:** 2796-1176

**DOI:** 10.24018/ejpolitics.2023.2.1.54

**K. E. McDave**

Faculty of Law, Pentecost University,  
Ghana

(e-mail: emkujo@pentvars.edu.gh)

**P. P. Dagadu\***

School of Law, Xiamen University, China

(e-mail: palmerdagadu@outlook.com)

\*Corresponding Author

## I. INTRODUCTION

Climate change is one of the most pressing issues of the twenty-first century because it has far-reaching consequences for the planet, society, and individual life (Wallstrom, 2003). Because of this, we can not only look at climate change as an environmental or economic problem (Stern, n/a), it is also a human rights issue (International Council on Human Rights Policy, 2008). Wetter and drier periods, stronger tropical storms, higher sea levels, loss of biodiversity, and an uptick in vector-borne diseases are just some of the negative outcomes of a warming planet. Human migration and displacement, food hardship, water scarcity, and the spread of disease are all results of these catastrophes. Most of these effects are connected to one another, and individuals who are most vulnerable frequently experience worsened effects. People who are disadvantaged and disenfranchised frequently endure the worst effects of climate change and they frequently experience more poverty, leaving them with less financial resources to meet the challenges offered by shifting settings. Due to this, developing nations frequently experience the most severe effects of climate change. (Humphreys, 2011).

In light of this, the international community is presently debating on how to best respond to the repercussions of climate change while also minimizing its further impact. Recognizing and comprehending the different hazards that climate change poses, as well as determining how vulnerable we are as a society to those threats, are essential parts of this process. (McCarthy *et al.*, 2001). A human rights-based perspective is one way to understand how these effects affect those who are most vulnerable and to develop a plan to deal with these issues.

Governments focus more on adaptation than on mitigating the effects of climate change since protecting their citizens from these effects is their top priority when it comes to policy. Climate-induced displacement is one of the most important topics of concern. In the event that people move as a result of climate-related occurrences, serious human rights concerns could arise. (Njoroge, 2016)

Through efficient catastrophe response plans and climate adaptation, governments cannot relocate this expanding population. This study examined how much climate change is affecting people from a human rights standpoint. The purpose of this paper is to evaluate how successfully existing legal frameworks integrate human rights protection with climate change impacts and to make recommendations for improving these frameworks.

## II. THE NEXUS OF CLIMATE CHANGE AND HUMAN RIGHTS

The links between climate change and human rights have grown increasingly robust during the past few years. In 2005, a group of Inuit lodged a complaint with the Inter-American Commission on Human Rights, holding the United States responsible for the detrimental effects climate change has had on their way of life. (Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations

Resulting from Global Warming Caused by Acts and Omissions of the United States) In 2008, the UN Human Rights Council requested a comprehensive analytical examination of the nexus between climate change and human rights from the Office of the United Nations High Commissioner for Human Rights (OHCHR), (Human Rights Council, Resolution 7/23 Human Rights and Climate Change). The OHCHR replied by saying global warming will potentially have ramifications for the complete range of human rights, before going on to explore some rights in further depth. (Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights, 2009) The right to life, the right to sufficient food, and the right to physical and mental health are all examples of such rights (ICESCR, Act. 6, Art. 11, Art. 12).

Additionally, the rights of specific population groups may suffer due to climatic factors. Among these groups are indigenous people and their collective right to self-determination, as well as the rights of already vulnerable groups like internally displaced people, children, and women in developing nations. For instance, it is not difficult to anticipate the negative impact that increasing sea levels will likely have on the way of life and the rights to life, health, and food of those who live on low-lying islands. According to the Inuit petition, rising Arctic temperatures could have a negative impact on indigenous populations health and ability to maintain their way of life. (Osofsky, 2007). Such arguments become stronger, perhaps, when we take into account the frustration endured by climate change campaigners favoring the adoption of an international climate change agreement. In light of the slow progress witnessed in achieving international consensus, climate change campaigners are inevitably looking to strengthen their case by relying on strong normative arguments. The phrasing of climate change campaigns in human rights terminology can be seen as a way of adding normative strength to the call for regulation.

From this, it is easy to see how climate change effects might be linked to violations of human rights. In other words, using human rights justification might be seen as strengthening the case for addressing climate change and making it more persuasive. (Trully, 2007). Additionally, commentators have noted that the application of normative human rights arguments may revive stagnant environmental debates while putting a human face on environmental suffering. This could, in turn give encouragement to appeals from disadvantaged groups who are likely to be particularly negatively impacted by climate change. (Trully, 2009). In a similar spirit, it has been underlined that the moral issues brought on by climate change are so severe that the only available rhetorical answer is to focus on human rights. (Sinden, 2007). When we consider that the group of individuals most likely to suffer negative effects from climate change are already vulnerable, such arguments become especially pertinent. This alone would be a very welcome outcome of such a plan if the presentation of climate change objectives in terms of human rights somehow places an additional attention upon the status of such disadvantaged groups. According to the aforementioned justifications, we can further claim that there is a connection between human rights and climate change that is based not only on rational considerations of utility, fairness, and rights but also on moral justifications of fairness, justice, and rights. Although topics related to fairness, justice, and climate change have gotten a lot of attention in other literatures, only works addressing rights and climate change will be mentioned here. (Soltau, 2009).

Simon Caney makes the most compelling case for the moral obligations that result from climate change. (Caney, 2010). In essence, Caney contends that people have a responsibility to refrain from engaging in actions that impair the rights of others, basing his argument that human rights are in jeopardy because of climate change on the work of Thomas Pogge and cosmopolitan ideas of justice. According to Caney, methods based on human rights can serve as a foundation for restitution when harm has been done. Caney makes the case for a hybrid strategy that combines the Contribution and the Ability to Pay principles in an effort to distribute the rights-corresponding duty coming as a result of climate change. (Caney, 2010). In other words, and perhaps not unexpectedly, the citizens of both rich and poor countries who contribute the most to climate change and who have the means to make up for harm done are conceived as the rights violators in question. The responsibilities in question are directed at people rather than states, which is consistent with general cosmopolitan reasoning. (Harris, 2008).

Even if these arguments are persuasive from a moral standpoint, they appear to falter quickly when we take them out of their theoretical setting. The cosmopolitan plea for a focus on individual behavior outside of state boundaries in a world order that is still firmly state-focused necessarily comes seen as somewhat utopian (Nagel, 2005). Despite the cosmopolitan argument it is improbable that any agreement on its effects could be obtained within the current framework of international law and diplomacy. It is improbable that developing countries would be willing to give in and accept emission reductions determined by reference to their wealthier citizens. Of course, this does not imply that claims on rights and justice are wholly unimportant, inappropriate, or unwanted. It only serves to emphasize the necessity for a dash of realism while attempting to solve the issue of climate change and global issues in general. (French, 2009). In addition to the nexus being made between climate change and human rights to enable some sort of action to lessen the harm that results, other, maybe even more obvious relationships already exist.

### III. CLIMATE CHANGE VIOLATIONS ON HUMAN RIGHTS

All human rights are inseparable, interconnected, and related; these are the three foundational elements for comprehending human rights. This means that rights cannot be examined in isolation. We also need to consider how they interact with one another. This is relevant to the debate over climate change impact on human rights and can be useful in assessing how the law governing climate change affects human rights. In the current legal disagreement about responsibility and fault in relation to climate change, a human rights viewpoint may provide some useful framework for the discussion. Before requiring states to protect their citizens from the effects of climate change, it is crucial to determine if the suffering caused by climate change affects or infringes human rights as recognized by present international and regional human rights legislation. (Louviere & Brown, 2008).

The fundamental sources of human rights on a global scale are human rights treaties, such as covenants, agreements, and declarations published under the auspices of regional organizations and the United Nations (UN). The International Bill of Rights is comprised of the Universal Declaration of Human Rights (UDHR), (General Assembly Resolution 217 A (III) (1948)) the International Covenant on Civil and Political Rights (ICCPR), 9 UNTS 1 (1966) and the International Covenant on Economic and Social Cultural Rights (ICESCR), which together form the International Bill of Rights. Climate change has an impact on a variety of rights included by the international human rights framework. First, the interconnected rights to life, health, and security of the individual are directly impacted by climate change. Article 3 of the UDHR and Article 6(1) of the ICCPR both enshrine the rights to life and security. In its General Comment on how the right to life should be considered, the UN Human Rights Committee cautioned against giving it a limited or restrictive interpretation (General Comment No. 6-the Right to Life (1982)) warned against interpreting the right to life in a narrow or restrictive manner. Additionally, it stresses that the state must act responsibly in order to defend this right. (Doussa, *et al.*, 2007) This means that persons who are harmed may seek remedies for violations of their right to life where a government fails to take reasonable efforts to prevent and adapt to climate change and preventable harm ensues from it. According to Articles 25 of the UDHR and 12(1) of the ICESCR, everyone has the right to a level of living that is sufficient for their own health and the welfare of their families.

The degree to which individuals and communities are able to realize their right to life and health is influenced by a wide range of direct and indirect variables. Extreme weather events, floods, rising sea levels, expanding deserts, and extreme heat waves are all consequences of climate change that threaten to lower people's living standards and quality of life. Those who live in regions hard hit by climate change have a lower quality of life overall because they are more likely to fall ill due to poor nutrition and a lack of access to clean water for drinking and hygiene. Climate change can potentially increase the severity of respiratory, water-borne, and vector-borne diseases. The World Health Organization (WHO) estimates that 150,000 people per year have lost their lives due to climate change-related causes since the 1970s. (Stern, 2022). Dengue fever is expected to become more widespread and dangerous as a result of climate change, putting an additional 3.5 billion people at risk by 2085. (Human Rights Committee of New South Wales Young Lawyers 2008 *supra* note 28, p. 11).

Secondly, the right to food may be violated as a result of climate change. Articles 11(1) and (2) of the ICESCR specifically mention the right to food and openly recognize it. Everyone has the right to enough food and the freedom from hunger, according to this. The right to food includes the consumption of food as well as its availability, accessibility, and steady supply. Extreme weather conditions, shifts in the appropriateness or availability of arable land, and shifts in the water supply have all been seen to restrict food availability by lowering food output. Less arable land due to desertification and sea level rise, shorter growing seasons due to lower and less dependable rainfall, and lower crop yields would all worsen malnutrition, hunger, and a nation's already high reliance on food imports.

Third, the Economic and Social Council (ESC) of the UN asserts that the right to water is inherent in many other explicitly mentioned rights, such as the right to health, and to adequate food, even though the right to water is not explicitly mentioned in the UN Bill of Rights. (ICESCR 1966 *supra* note 18, Article 12(1)). The ESC draws the conclusion that, given that it is one of the most basic necessities for survival, the right to water obviously falls under the category of guarantees necessary to ensure a living quality that is acceptable. (Economic and Social Council, General Comment 15 (2002)). The loss of availability to fresh water caused by altered rainfall patterns and increased condensation is the most significant effect of climate change on the right to water. Poor rural farmers are likely to be more vulnerable as a result of changes in water availability and quality brought on by climate change, particularly in the mega-deltas and the arid and semi-arid tropics. Fresh water systems are already under stress from other factors including population increase, shifting economic activity, changing land use, and urbanization, but the negative effects of climate change make things worse. (Bates *et al.*, 2008).

Forced migration and relocation are the final significant human rights issue resulting from climate change. The large migration of migrants towards locations with better access to water and other resources,

which are fast disappearing, is a significant human rights issue in the context of climate change. Even though the current definition of refugees does not include climate change refugees (Refugee Convention, 1951). Environmentalists and international human rights experts have drawn attention to the phenomenon of climate and environmentally induced refugees and have started to push for the word to be expanded. Migration in response to environmental deterioration is quickly becoming the most typical sort of forced migration to occur in the 21st century. The effects of global warming may need up to 150 million people to relocate by 2025. (Cooper, 1988).

It is obvious that in the context of climate change, nations' obligations under international law to respect, preserve, promote, and uphold human rights are just as important. Although it may be difficult to identify the specific causes of climate change, it is the responsibility of the state to safeguard its inhabitants from the effects to the extent that this is reasonable. Therefore, states have a responsibility to implement preventative measures to safeguard citizens from climate change's effects and to encourage approaches to adaptation and mitigation to lessen the effects of a changing climate.

#### IV. CONCLUSION

Overall, given the normative force that human rights are perceived to have, it is hardly unexpected that they are becoming a more important topic in discussions on climate change. Since there are so many unknowns associated with climate change, which has the potential to have terrible impacts, it stands to reason that people will unavoidably look for solutions supported by compelling deontological and normative arguments based on ethical considerations. A rough conclusion in this regard would be that, as the effects of climate change become more pronounced and frequent, we will probably notice more citations of these normative reasons, and it is very possible that this phenomenon will also apply to human rights norms. As a result, international and domestic judicial systems will probably encounter disputes relating to climate change and human rights increasingly frequently. There is a very real possibility that, particularly in the case of climate change, human rights promise more than they can deliver, according to this analysis, which highlights the importance of exercising caution when climate change campaigners invoke human rights.

It is obvious that climate change has a negative influence on human rights, particularly the rights to life, health, food, water, and shelter. This article's relevance lies less in the discovery of how climate change affects human rights than it does in how governments react when violations have already occurred or are imminent. The study has shown that governments fall short of their duties to safeguard citizens' rights in the face of climate change. People continue to live in abhorrent conditions and deal with the harm brought on by the harsh effects of climate variance, especially those who have been displaced by armed conflicts or climate change itself. The violations include things like death, malnutrition, sickness, lack of access to food, and displacement.

Human rights are linked and indivisible, therefore, states should be urged to ratify and uphold current environmental, climate change, and human rights-related declarations, treaties, policies, and institutions. For instance, the Paris Agreement, which all nations have ratified for the first time, is a constructive worldwide agreement to address climate change as a major and urgent threat to humanity. It mentions a consensus goal of keeping global warming far below 2°C, even 1.5°C, in order to establish a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century. (Clemencon, 2016). Article 4 on mitigation includes a demand towards net zero emissions in the second half of the century. According to the Paris Agreement, wealthy nations must continue to take the initiative in taking mitigation measures, and poor nations must also continue to increase their mitigation efforts with backing from rich nations. Countries that are essentially developing may make a contribution in this situation by proposing low greenhouse gas emissions approached to development, programs, and activities. Additionally, Poor nations who are participants to the agreement and are striving for more ambitious adaptation targets will benefit from a firm stance on this issue, as acknowledged in Article 7 United Nations Framework Convention on Climate Change.

States should provide financial support for these initiatives and aid to vulnerable populations locally through adaptation and mitigation strategies. Raising public understanding of climate change's effects, its consequences for human rights, and the options for adapting to and mitigating against it is just as important as improving existing laws, rules, and institutions. Because of their unique perspective, local communities are in the best position to tell states on the impacts of climate change in their areas and the best ways to mitigate them. This knowledge can inform legal and policy palliatives. To begin with, nations need to accept that climate change is a real danger and that it already has far-reaching consequences for their economies, levels of development, populations, and natural environments. Ultimately, they need to understand the responsibility they have to respect, protect, advance, and enforce the human rights of their

own citizens and anyone else who has been displaced from their home because of climate change and now resides on their land.

#### REFERENCES

- Bates, B.C, Kundzewicz, Z.W, Wu, S, & Palutikof, J.P (Eds), (2008). *Climate change and water, Geneva: The intergovernmental panel on climate change (IPCC)*.
- Caney, S. (2010). Human rights, responsibilities, and climate change in Humphreys (ed), *Human rights and climate change*. CUP, Cambridge.
- Clemencon, R. (2016). The two sides of the Paris climate agreement: dismal failure or historic breakthrough?' *Journal of Environment & Development*, 25(1), 3.
- Cooper, J.B. (1988). *Environmental refugees: meeting the requirements of the refugee definition*. New York University Environmental Law Journal.
- Doussa, J.V, Corkery, A, & Chartres, R. (2007). *Human rights and climate change*. Australian International Law Journal.
- French, D. (2009). *Global justice and the (ir)relevance of indeterminacy*. 8 Chinese JIL.
- Harris, P. (2008). Climate change and global citizenship. *Law and Policy*, 30(4), 481.
- Human Rights Committee of New South Wales Young Lawyers, *Human Rights and Climate Change Study: A Submission to the OHCHR*, 2008, p. 11. at: [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/NSW\\_Young\\_Lawyers\\_HR\\_Climate\\_Change.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/NSW_Young_Lawyers_HR_Climate_Change.pdf).
- Humphreys, S. (Ed.). (2011). *Human rights and climate change*. Cambridge: Cambridge University Press.
- International Council on Human Rights Policy, '*Climate change and human rights: a rough guide*', Versoix 2008. [http://www2.ohchr.org/english/issues/climatechange/docs/submissions/136\\_report.pdf](http://www2.ohchr.org/english/issues/climatechange/docs/submissions/136_report.pdf).
- Louviere, J.P & Brown, D.A. (2008). *The significance of understanding inadequate national climate change programs as human rights violation*. Climate Ethics.
- McCarthy, J. et al. (2001). *Climate change 2001: impacts, adaptation, and vulnerability*. Contribution of working group II to the Third Assessment Report of the Intergovernmental Panel on Climate Change.
- Nagel, T. (2005). The Problem of Global Justice. *Philosophy and Public Affairs*, 33(2), 113.
- Njoroge, E.M. (2016). *Africa's humanitarian action in migration policy: adjusting to environment and climate change*. Institute of resource assessment/African climate change fellowship program, University of Dar es Salaam 2016, at [https://unfccc.int/files/adaptation/groups\\_committees/loss\\_and\\_damage\\_executive\\_committee/application/pdf/africa-focused\\_environmental\\_pillar\\_research\\_summary\\_final.pdf](https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/africa-focused_environmental_pillar_research_summary_final.pdf).
- Osofsky, H.M. (2007). *The Inuit petition as a bridge? Beyond dialectics of climate change and indigenous peoples' rights*. Am Indian L Rev, p. 675.
- Petition to the inter-American commission on human rights seeking relief from violations resulting from global warming caused by acts and omissions of the United States of 7 December 2005* on [https://www.law.uh.edu/faculty/thester/courses/ICC\\_Petition\\_7Dec05.pdf](https://www.law.uh.edu/faculty/thester/courses/ICC_Petition_7Dec05.pdf).
- Sinden, A. (2007). Climate change and human rights. *J Land, Resources & Env't Law*, 27(2), 255.
- Soltau, F. (2009). *Fairness in international climate change law and policy*. CUP, New York.
- Stern, N. *Report on economic impacts on climate change*, at: [http://www.hmtreasury.gov.uk/stern\\_review\\_report.htm](http://www.hmtreasury.gov.uk/stern_review_report.htm). Accessed on 18th Oct 2022.
- Trully, S. (2007). *The contribution of human rights as an additional perspective on climate change impacts within the Pacific*. 5 New Zealand Journal of Public International Law.
- Trully, S. (2009). *Like oil and water: A skeptical appraisal of climate change and human rights*. 15 Australian International Law Journal.
- Wallstrom, M. (2003). Meeting the long-term challenge of global warming: A European perspective in D. Michel, (ed.) *Climate policy for the 21st century: meeting the long-term challenge of global warming*. Washington D.C.: Centre for Transatlantic Relations.