DOCTRINAL INTERFACES BETWEEN CLIMATE CHANGE GOVERNANCE AND INTERNATIONAL HUMAN RIGHTS PROTECTION

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ABSTRACT

The existential issue of climate change is not limited to environmental science but also encompasses normative human rights. In this paper, an aid will also be given to the doctrinal connections between the governance of climate change and the international safeguarding of human rights, with the main focus on how environmental degradation attempts to directly take away the enjoyment of fundamental rights to life, health, food, water, housing, and cultural identity. Following an examination of international treaties, judicial precedents, and changing doctrines, this paper argues that there are normative and enforceable avenues for strengthening climate governance within human rights frameworks. At the same time, climate regimes are becoming increasingly aware of the importance of human rights as a key to sustainable action. The paper examines the lapses in accountability, the suffering of climate refugees, the contribution of climate finance and green technologies, and proposes doctrinal directions in streamlining the disconnected regimes. Finally, it argues that it is necessary to effectively integrate human rights into the governance of climate change to ensure that present and future generations are guaranteed justice.

Keywords: Climate Change, Human Rights, Environmental Governance, Climate Justice, Sustainable Development.

INTRODUCTION

Climate change is no longer a narrow environmental problem, but a crisis of human rights. The rapidly accelerated global warming has ushered in a train of severe repercussions, including sea level rise that compromises the territorial sovereignty of coastal and island nations,

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abnormally prolonged and intense heatwaves that imperil human life directly, aridity that undermines agriculture's viability, and regular disasters that destroy community resilience. These occurrences, far from being solely ecological disruptors, are a threat to the very existence of populations in different parts of the world. The capacity of people to ensure access to the very essentials of sustenance, safe drinking water, a fair supply of nourishment, a decent level of healthcare, and sturdy shelter is being dismantled at a hitherto unprecedented pace. More and more, researchers as well as policymakers note that climate-elicited vulnerabilities specifically target socially and economically vulnerable populations, thus accentuating lines of exclusion and exacerbating structure-borne injustices.

The United Nations Human Rights Council has repeatedly recognised that climate change is a major threat to the realisation of basic human rights, such as the right to life and development.[1] This is not a singular proclamation; it fits into an expanding universe of international thinking that positions climate change as central to human dignity and justice. In positing climate change as a rights issue, the Human Rights Council notes that environmental protection cannot exist in a separate sphere from the larger lattice of responsibilities that international law places upon states. Climate change is no longer simply a matter of environmental sustainability but of legal responsibility, in which the very preservation of humanity is in play.

States thus have a dual imperative to reduce and adapt to climate change, as authorised under environmental treaties, as well as to comply with, preserve, and fulfil international law's human rights, obligations, and undertakings. This doubleness generates a complex interface: while international environmental law has previously centred state action and collaborative behaviour in accordance with principles such as "common but differentiated responsibilities," international human rights law is founded upon the inherent rights and dignity of individuals. Crossing these two realities obliges states not only to act in good faith toward international climate commitments, but to ensure mitigation and adaptation measures do not reduce, and instead strengthen, enjoyment of core rights.

The current paper explores the interfaces of doctrine between climatic governance, oil protection, and the protection of human rights. It examines the interaction, overlap, and conflict of fragmented legal systems, that is, the environmental agreements, human rights treaties,

[1] United Nations Human Rights Council, ‘Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights’ (15 January 2009) UN Doc A/HRC/10/61.

customary law, and judicial interpretations. Such fragmentation presents both risks and opportunities: risks in terms of conflicting obligations and interpretive uncertainty, but opportunities in terms of cross-fertilisation of legal principles and the development of a more holistic international legal order. For instance, the precautionary principle and the principle of intergenerational equity resonate both in environmental jurisprudence and in the emerging human rights discourse on sustainable development.

It argues that only in normative integration would climate governance transition from aspirational commitments to legally enforceable promises of justice to vulnerable groups. Without that integration, environmental law would remain a soft law regime, and human rights law may not bring in ecological preconditions of rights realisation. While normative convergence offers a possible bridge to greater state accountability, higher enforceability in a court-of-law sense, and an assurance that vulnerable groups, not least those most irresponsible for greenhouse emissions, are not left remedy-less in a climate crisis.

THEORETICAL FOUNDATIONS: HUMAN RIGHTS AND ENVIRONMENTAL LAW

The international human rights law is based on universality and interdependence. The right to life is established under the International Covenant on Civil and Political Rights (ICCPR), and the rights to food, water, and health are contained within the International Covenant on Economic, Social, and Cultural Rights (ICESCR). In contrast, environmental law is based on sustainability, precaution, and common but differentiated responsibilities (CBDR). Although not of the same origin, these spheres intersect in practice: any destruction of the environment has a direct negative impact on the enjoyment of human rights.[2]

The scholars emphasise the ecological aspect of human rights, which demands that states should not only avoid harming, but also protect the environment as a positive duty. The development of this doctrine has been evident in jurisprudence since the Inter-American Court of Human Rights and the European Court of Human Rights, which address the connection between state responsibility for environmental harm on the one hand and human rights violations on the other hand.[3]

[2] A Boyle, 'Human Rights and the Environment: Where Next?' (2012) 23 European Journal of International Law 613.
[3] IACtHR, Advisory Opinion OC-23/17 on the Environment and Human Rights (15 November 2017).

INTERNATIONAL LEGAL FRAMEWORKS: CLIMATE TREATIES AND HUMAN RIGHTS NORMS

The multilateral climate agreements are the starting point of the doctrinal interface. The United Nations Framework Convention on Climate Change (UNFCCC) commits states to stabilise greenhouse gas concentrations, whereas the Kyoto Protocol and the Paris Agreement provide the mechanism through which emissions reduction can be achieved. Such treaties, however, are frail in their implementation and are seldom written in the form of rights.

Human rights treaties, by comparison, are binding in the sense that they are overseen by treaty organs and judicial courts. Article 6 of the ICCPR (right to life) has been interpreted by the Human Rights Committee (HRC) to mean that states must take steps to prevent environmental degradation. On the same note, the Committee on Economic, Social, and Cultural Rights (CESCR) has noted that climate change is a dangerous threat to health, food, and water rights.[4]

The right to a clean, healthy, and sustainable environment was established as a universal human right by the recent UN General Assembly Resolution 76/300. This is a non-binding resolution that makes the doctrinal gap between environmental law and human rights stronger, as it defines environmental protection as a normative right and not as a discretionary policy.[5]

CLIMATE CHANGE AS A HUMAN RIGHTS CONCERN

The impact of climate change is a threat to nearly all types of rights -

Right to Life: The increase in temperature and catastrophes directly leads to loss of lives. Courts, like in the case of Urgenda Foundation v Netherlands (2015), affirmed that poor climate action is a breach of the right to life and private life under the European Convention on Human Rights.[6]

Right to Health: Article 12 ICESCR on health is negated by pollution, diseases caused by vectors, and heatwaves.

[4] UN Human Rights Committee, General Comment No 36 on article 6: Right to life (30 October 2018) UN Doc CCPR/C/GC/36.
[5] UNGA Res 76/300 (28 July 2022) UN Doc A/RES/76/300.
[6] Urgenda Foundation v The State of the Netherlands HAZA C/09/00456689 (District Court of The Hague, 24 June 2015).

Right to Food and Water: Droughts and salinisation destroy food systems and endanger subsistence rights.

Right to Housing and Culture: Housing and culture rights are threatened by the displacement of indigenous and coastal communities.

Intergenerational Justice: The next generations face environments that are weaker than those of their parents, and there is an issue of unfairness through time. Human rights bodies in their advisory opinion are creeping towards acknowledging that there is an obligation to even unborn generations.[7]

JURISPRUDENTIAL DEVELOPMENTS

The interface is additionally disclosed in case law:

Teitiota v New Zealand (2020): The Human Rights Committee acknowledged that climate change could give rise to non-refoulement requirements under the ICCPR, but did not find an imminent danger in Teitiota's case. The ruling nonetheless confirmed that climate-induced displacement is addressed by human rights law.[8]

Urgenda Foundation v Netherlands (2015): The Dutch courts obliged the government to reduce emissions, and the government's inability to implement this obligation put a strain on human rights under the ECHR.

Torres Strait Islanders v Australia (2022): The UN Human Rights Committee concluded Australia had infringed rights to culture and family life by not ensuring indigenous people were not put at risk by rising seas.

These cases also demonstrate the incremental judicial growth, including human rights norms in climate governance, even where it is not explicitly stated in the treaties.

[7] Advisory Opinion OC-23/17 on the Environment and Human Rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity: interpretation and scope of articles 4(1) and 5(1) in relation to articles 1(1) and 2 of the American Convention on Human Rights) IACtHR (15 November 2017).
[8] Ioane Teitiota v New Zealand UN Human Rights Committee, Communication No 2728/2016, UN Doc CCPR/C/127/D/2728/2016 (7 January 2020).

CLIMATE REFUGEES AND GAPS IN INTERNATIONAL LAW

One of the gaps that is critical in terms of doctrine is the lack of legal acknowledgement of climate refugees. The 1951 Refugee Convention applies to people who leave their countries due to persecution, but does not apply to displacement due to environmental degradation. Thus, millions of climate migrants are put in legal limbo. This gap can be seen in the case of Teitiota, in which increasing sea levels and water shortage could not be considered a sufficient reason to grant asylum.[9]

Reform proposals consist of:

- Varying the meaning of the word persecution and including displacement caused by climate.
- Formulating a convention on climate refugees.
- Appreciating that the obligation under the principle of non-refoulement applies to environmental damage.

Until these reforms are made, the issue of uncertainty on doctrines will persist to compromise the rights of displaced populations.

ACCOUNTABILITY, STATE RESPONSIBILITY, AND CORPORATE ACTORS

Another interface of accountability occurs in the convergence between climate change and human rights. While global climate agreements enunciate key state commitments, these are often not invested in effective enforcement procedures, often only providing for voluntary action or peer review by parties. The international and regional subsystems of human rights, however, have greater institutional checks. Human rights procedures enable individuals, groups, and non-governmental organisations to bring proceedings against states in courts and quasi-judicial bodies. This is effective in terms of accountability as it broadens enforcement beyond relations between states and provides a forum for affected individuals to challenge directly a state's inaction or doing harm through a policy. The incorporation of human rights obligations in climate regimes, then, generates a dual procedure, one in which climate obligations and binding human rights responsibilities converge, as a result, reinforcing legal oversight and remedy avenues.

[9] GJ Abel, 'Climate, Conflict and Forced Migration' (2019) 54 Global Environmental Change 239.

Moreover, corporate accountability is increasingly a dogma in global climate governance. Major oil companies are among the greatest emitters of greenhouse gases and, as such, are central actors in the global climate crisis. Increasingly, litigation has held corporate actors accountable for their role in contributing to environmental destruction and human rights violations. Pioneers such as Milieudefensie v Royal Dutch Shell (2021) illustrate this trend, where a local court has held a corporation enforceably accountable to reduce its emissions in line with global climate goals.[10] Such precedents demonstrate that individual actors, such as powerful private companies, are not beyond accountability. They, too, have responsibilities under the emerging principles linking human rights and environmental conservation, representing a shift in accountability from states alone to a broader spectrum of actors in the international legal order.

GREEN TECHNOLOGY AND CLIMATE FINANCE AS RIGHTS-ENABLING MECHANISMS

To operationalise the linkages between climate and human rights, technological advancements and financial instruments are crucial. It decreases reliance on fossil fuel, where states' responsibility to protect life and health is also met. In the same way, climate finance embodied in the Copenhagen Accord and Paris Agreement expresses redistributive justice, which obligates rich countries to help poorer ones.

Yet chronic under-resourcing and obscure reporting channels belie these commitments. In the absence of procedural equity and meaningful redistribution, climate finance threatens to be another broken promise, creating a breach of fairness in the implementation of human rights protection.[11]

[10] Milieudefensie et al v Royal Dutch Shell plc ECLI:NL: RBDHA: 2021:5337 (District Court of The Hague, 26 May 2021).
[11] J Timmons Roberts and others, 'Rebooting a Failed Promise of Climate Finance' (2021) 11 Nature Climate Change 180.

CRITICAL CHALLENGES AND DOCTRINAL GAPS

However, there are still several normative problems despite this progress -

Fragmentation: climate and human rights treaties work in silos.

Enforcement Shortage: There is no binding dispute-resolution mechanism in environmental treaties like human rights courts.

Sovereignty Issues: States refuse to accept doctrines that limit sovereign discretion.

Equity Concerns: Developing countries bear an unfair burden, resulting in the issue of distributive justice.

Future Generations: There is currently poor protection for future generations, despite strong ethical arguments in favour of it.

There can be no compromise across these chasms; to bridge them requires doctrinal innovation, crosspollination among legal systems, and more robust judicial intervention.

CONCLUSION

This piece has analysed intricate intersections of climate governance and international human rights as a legal doctrine issue. The piece shows that, whereas climate instruments such as the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement have set a vital structure for mitigation and adaptation, they are yet deficient in the absence of incorporation in binding standards concerning human rights.[12] With such incorporation absent, climate governance promises risk remaining aspirational and bereft of enforceability. International law's fragmentation, as was previously noted, continues to create obstacles, and in emergent ones, such as climate-related displacement, attribution of accountability to large emitters, as well as recognition of rights regarding generations, inclusive of the unborn.[13]

[12] United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) 1771 UNTS 107; Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) UN Doc FCCC/CP/2015/10/Add.1.

[13] Jane McAdam, Climate Change, Forced Migration, and International Law (Oxford University Press 2012) 45–60.

It is in this regard that courts, treaty-monitoring bodies, and human rights institutions have started to fill these gaps, thus functioning as laboratories of norm innovation. The Urgenda Foundation v. Netherlands case and the Human Rights Committee's identification of state responsibility in Torres Strait Islanders v. Australia reflect the expanding role of the judiciary in filling doctrinal vacancies.[14] Nevertheless, a lack of coherent legal standards points to a greater need for a harmonised jurisprudence inclusive of climate obligations as a complement to fundamental rights.

Its future will thus have to involve embracing a rights-oriented approach, where environmental responsibilities are not framed in terms of policy objectives but are converted into legally binding rights.[15] This would involve a shift in paradigms where climate mitigation and adaptation measures are held to identical tests of accountability, proportionality, and non-discrimination as customary humanitarian rights obligations. This would involve a rights-oriented approach as a matter of ensuring vulnerable populations—the ones who are most harmed by climate injuries and contribute most marginally to global emissions—are not rendered remedy-less.[16]

Also essential is the operationalisation of climate justice in fair climate finance, technology transfer, and building capacity, particularly in developing countries.[17] By incorporating fairness, responsibility, and solidarity principles in the climate regime, international law could prevent the persistence of structural inequalities. Moreover, enjoining intergenerational equity as a legally binding principle would secure rights for forthcoming generations, subjecting environmental guardianship as a contributing factor in the rights of humankind.[18]

Unless such integration of norms is tackled as a matter of urgency, climate governance will remain incoherent, incompetent, and a source of one of this century's greatest human rights crises.[19] International law is only capable of realising its ultimate mandate: protecting human

[14] Urgenda Foundation v. State of the Netherlands (2019) ECLI:NL: HR: 2019:2007 (Supreme Court of the Netherlands); Torres Strait Islanders v. Australia (UN Human Rights Committee, Communication No 3624/2019, CCPR/C/135/D/3624/2019, 22 September 2022).
[15] Alan Boyle, 'Human Rights and the Environment: Where Next?' (2012) 23 European Journal of International Law 613.
[16] John H Knox, 'Climate Change and Human Rights Law' (2020) 50 Environmental Policy and Law 91.
[17] Lavanya Rajamani, International Climate Change Law (Oxford University Press 2021) 184–210.
[18] Edith Brown Weiss, 'Our Rights and Obligations to Future Generations for the Environment' (1990) 84 American Journal of International Law 198.
[19] Dinah Shelton, Human Rights and the Environment: Problems and Possibilities (Council of Europe Publishing 2011) 23–27.

dignity, justice, and survival over generations, only through environmental obligation convergence and the guarantee of human rights.