

**NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES,**

**KOCHI**

**DISSERTATION**

*Submitted in partial fulfilment of the requirement for the award of the*

*degree of*

**MASTER OF LAWS (LL.M.)**



**(2023-2024)**

**ON THE TOPIC**

**‘A STUDY ON HUMAN RIGHTS-BASED APPROACH TO  
CLIMATE CHANGE IN INDIA’**

Under the Guidance and Supervision of

**Dr. ANIL R. NAIR**

Associate Professor

THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES

Submitted by

**ANAGHA DINESAN**

**LM0123017**

LL.M. (CONSTITUTIONAL AND ADMINISTRATIVE LAW)

## **CERTIFICATE**

This is to certify that Ms. ANAGHA DINESAN, Reg. No. LM0123017 has submitted her dissertation titled, “**A STUDY ON HUMAN RIGHTS-BASED APPROACH TO CLIMATE CHANGE IN INDIA**” in partial fulfilment of the requirement for the award of Degree of Master of Law in Constitutional and Administrative Law to the National University of Advanced Legal Studies, Kochi under my guidance and supervision. It is also affirmed that, the dissertation submitted by her is original, bona-fide and genuine.

Date: 23.06.2024

Place: Ernakulam

**Dr. ANIL R. NAIR**

Guide & Supervisor

Associate Professor

NUALS, Kochi

## **DECLARATION**

I do hereby declare that the dissertation titled “**A STUDY ON HUMAN RIGHTS-BASED APPROACH TO CLIMATE CHANGE IN INDIA,**” researched and submitted by me to the National University of Advanced Legal Studies, Kochi, in partial fulfilment of the requirement for the award of Degree of Master of Law in Constitutional and Administrative Law, under the guidance and supervision of **Dr. ANIL R. NAIR**, is an original, bonafide and legitimate work and it has been pursued an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this University or any other University.

Date: 23.06.2024

Place: Ernakulam

**ANAGHA DINESAN**

Reg. No: LM0123017

LL.M. (CAL)

NUALS, Kochi

## ACKNOWLEDGEMENT

I take this opportunity to express my profound respect and a deep sense of gratitude to **Dr. Anil R Nair**, my guide and supervisor, for his support, guidance, and encouragement throughout the course of my research work. He was always approachable, respected my ideas, and gave me clear, cogent, and meaningful suggestions, which has aided me profusely in completing this dissertation.

I want to extend my gratitude to the Vice-Chancellor, **Hon'ble Justice (Retd.) S. Siri Jagan** for his constant encouragement and support. I express my sincere thanks to **Prof. (Dr.) Mini. S**, Director of Centre for Post Graduate Legal Studies, for the support and encouragement she extended during the course. I would like to extend my deep gratitude to the faculty of NUALS for their constant encouragement.

I want to extend my sincere thanks to the University Library department for providing us with continuous access to online resources and the enriched library of the National University of Advanced Legal Studies, which proved invaluable in helping me complete my dissertation.

Words fall short of expressing love, appreciation, and gratitude to my dear family and friends for their constant encouragement.

With genuine humility, I am thankful to The Almighty for all his uncountable bounties and blessings.

**ANAGHA DINESAN**

## TABLE OF CONTENTS

<b>CONTENTS</b>	<b>PG. NO.</b>
List of Cases	I
Abbreviations	II-III
<b>Chapter 1: Introduction</b> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Statement of Problem</li> <li>• Research Question</li> <li>• Objective of Research</li> <li>• Research Hypothesis</li> <li>• Research Methodology</li> <li>• Limitation of Study</li> <li>• Chapterization</li> </ul>	1-8 1 4 4 5 5 5 5 6
<b>Chapter 2: Theoretical Framework: Human Rights and Climate Change</b> <ul style="list-style-type: none"> <li>• Overview of the Concept of Human Rights</li> <li>• Fundamental Human Rights Principles</li> <li>• Relationship Between Human Rights and Climate Change               <ul style="list-style-type: none"> <li>a) Impacts of Climate Change on the Enjoyment of Human Rights</li> <li>b) Human Rights Obligations and Climate Change</li> <li>c) Climate change as a Human Rights Issue</li> </ul> </li> </ul>	9-27 9 11 13 14 19 22
<b>Chapter 3: International Legal Framework on Human Rights Approach to Climate Change</b> <ul style="list-style-type: none"> <li>• Introduction</li> <li>• Stockholm Declaration of United Nations Conference on The Human Environment, 1972</li> <li>• The First World Climate Conference, 1979</li> </ul>	28-50 28 29 29

<ul style="list-style-type: none"> <li>• The Intergovernmental Panel on Climate Change, 1988</li> <li>• The Second World Climate Conference, 1990</li> <li>• Rio Declaration on Environment and Development, 1992</li> <li>• The United Nations Framework Convention on Climate Change (UNFCCC), 1994</li> <li>• The Kyoto Protocol, 1997</li> <li>• Male Declaration, 2007</li> <li>• United Nations - Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, 2008</li> <li>• United Nations Guiding Principles on Business and Human Rights, 2011</li> <li>• The Paris Agreement, 2015</li> <li>• International Judicial Decisions <ul style="list-style-type: none"> <li>a) Pakistan: <i>Leghari v. Federation of Pakistan</i> 2018</li> <li>b) Colombia: <i>Future Generations v Ministry of the Environment</i> 2018</li> <li>c) Netherlands: <i>Urgenda Foundation v. The State of the Netherlands</i> 2020</li> <li>d) South Korea: <i>Opinion of the National Human Rights Commission on the Constitutional Complaints on Constitutionality of Carbon Neutrality Act</i> 2023</li> <li>e) ECHR: <i>KlimaSeniorinnen v. Switzerland</i> 2024</li> </ul> </li> <li>• Conclusion</li> </ul>	<p>30</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>35</p> <p>36</p> <p>37</p> <p>39</p> <p>42</p> <p>42</p> <p>44</p> <p>45</p> <p>47</p> <p>48</p> <p>50</p>
<p><b>Chapter 4: Indian Perspective on Human Rights Approach to Climate Change</b></p> <ul style="list-style-type: none"> <li>• Indian Legislations and Policies on Climate Change <ul style="list-style-type: none"> <li>a) The Environmental Protection Act of 1986</li> <li>b) The Energy Conservation Act, 2001</li> <li>c) National Environment Policy, 2006</li> <li>d) National Action Plan on Climate Change (NAPCC), 2008</li> <li>e) National Green Tribunal Act, 2010</li> <li>f) Coastal Regulation Zone Notification, 2011</li> </ul> </li> </ul>	<p>51-74</p> <p>51</p> <p>51</p> <p>53</p> <p>55</p> <p>57</p> <p>70</p> <p>71</p>

<ul style="list-style-type: none"> <li>• Conclusion</li> </ul>	72
<b>Chapter 5: An Analysis of Judicial Decisions on Climate Change in India</b>	75-90
<ul style="list-style-type: none"> <li>• Introduction</li> </ul>	75
<ul style="list-style-type: none"> <li>• Cases Where Climate Change Forms the Core of The Legal Arguments</li> </ul>	76
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>a) <i>Ridhima Pandey v. Union of India</i></li> </ul> </li> </ul>	76
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>b) <i>Manushi Sangathan v. Government of Delhi</i></li> </ul> </li> </ul>	79
<ul style="list-style-type: none"> <li>• Cases Where the Legal Claims at Issue Relate to Climate Change Concerns</li> </ul>	81
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>a) <i>Rajiv Dutta v. Union of India</i></li> </ul> </li> </ul>	81
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>b) <i>Indian Council for Enviro-Legal Action (ICELA) v. MoEF</i></li> </ul> </li> </ul>	82
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>c) <i>In re Court on its own motion v. State of Himachal Pradesh</i></li> </ul> </li> </ul>	84
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>d) <i>Hanuman Laxman Aroskar v. Union of India</i></li> </ul> </li> </ul>	85
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>e) <i>Narmada Bachao Andolan v. Union of India</i></li> </ul> </li> </ul>	86
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>f) <i>Goa Foundation v. Union of India and Others</i></li> </ul> </li> </ul>	87
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>g) <i>Tamil Nadu Newsprint and Papers Ltd. v. Tamil Nadu Electricity Regulatory Commission</i></li> </ul> </li> </ul>	89
<ul style="list-style-type: none"> <li>• Conclusion</li> </ul>	90
<b>Chapter 6: Findings, Suggestions and Conclusion</b>	91-105
<ul style="list-style-type: none"> <li>• Introduction</li> </ul>	91
<ul style="list-style-type: none"> <li>• Findings And Suggestions</li> </ul>	91
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>a) Parties to the Paris Agreement</li> </ul> </li> </ul>	91
<ul style="list-style-type: none"> <li> <ul style="list-style-type: none"> <li>b) India</li> </ul> </li> </ul>	94
<ul style="list-style-type: none"> <li>• Conclusion</li> </ul>	102
<b>Bibliography</b>	106-112
<b>Appendix</b>	113

**TABLE OF CASES**

- 1) *Byung-In Kim et al. v. South Korea*, Case No. 2021 HunMa1264.
- 2) *Electrosteel Steels Ltd. v. Union of India*, W.P. (C) No. 2033/2015.
- 3) *Future Generations v. Ministry of the Environment*, Ref No. 11001 22 03 000 2018 00319 00.
- 4) *Gaurav Bansal v. Union of India & Others*, Original Application No. 325/ 2018.
- 5) *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd. and Others*, FHC/B/CS/53/05.
- 6) *Goa Foundation v. Union of India and Others*, 2014 AIR SC 6014.
- 7) *Hanuman Laxman Aroskar v. Union of India*, 2019 SCC 15 401.
- 8) *In re Court on its own motion v. State of Himachal Pradesh*, 2013 (CWPIIL No. 15 of 2010).
- 9) *Indian Council for Enviro-Legal Action (ICELA) v. MoEF*, NGT Application No. 170 of 2014.
- 10) *KlimaSeniorinnen v. Switzerland*, Application no. 53600/20.
- 11) *Leghari v. Federation of Pakistan*, W.P. No. 25501/2015.
- 12) *Manushi Sangathan v. Government of Delhi*, 2013 AD DEL 1 65.
- 13) *Narmada Bachao Andolan v. Union of India*, 2022 SCC ONLINE SC 1401.
- 14) *Opinion of the National Human Rights Commission on the Constitutional Complaints on Constitutionality of Carbon Neutrality Act, 2023*.
- 15) *Rajiv Dutta v. Union of India*, M.A. No. 397 of 2017.
- 16) *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.
- 17) *Tamil Nadu Newsprint and Papers Ltd. v. Tamil Nadu Electricity Regulatory Commission*, 2007 ELR(APTEL)157.
- 18) *Urgenda Foundation v. The State of the Netherlands*, [2015] HAZA C/09/00456689.



## ABBREVIATIONS

1. **AM J INT'L L:** American Journal of International Law
2. **AMRUT:** Atal Mission for Rejuvenation and Urban Transformation
3. **Art.:** Article
4. **BEE:** Bureau of Energy Efficiency
5. **CAMPA:** Compensatory Afforestation Fund Management and Planning Authority
6. **CBDR:** Common but differentiated responsibility
7. **CCSAMMN:** Climate Change and Sustainable Agriculture Monitoring, Modelling and Networking
8. **COP:** Conference of the Parties
9. **CPCB:** Central Pollution Control Board
10. **CRZ:** Coastal Regulation Zone
11. **CZMP:** Coastal Zone Management Plan
12. **ECtHR:** European Court of Human Rights
13. **EIA:** Environmental Impact Assessment
14. **EPA:** Environment Protection Action
15. **EU:** European Union
16. **FAO:** Food and Agriculture Organization of the United Nations
17. **FPIC:** Free, prior, and informed consent
18. **GHG:** Greenhouse gases
19. **GIM:** Green India Mission
20. **HRBA:** Human rights-based approach
21. **ICCPR:** International Covenant on Civil and Political Rights
22. **ICELA:** Indian Council for Enviro-Legal Action
23. **ICESCR:** International Covenant on Economic, Social and Cultural Rights
24. **IPCC:** Intergovernmental Panel on Climate Change
25. **JNNURM:** Jawaharlal Nehru National Urban Renewable Mission
26. **MGNREGA:** Mahatma Gandhi National Rural Employment Guarantee Act
27. **MNEs:** Multinational Enterprises
28. **MOEF:** Ministry of Environment, Forest and Climate Change of India
29. **NAPCC:** National Action Plan on Climate Change
30. **NEERI:** National Environmental Engineering Research Institute
31. **NGO:** Non-governmental organization

32. **NGT:** National Green Tribunal
33. **NMEE:** National Mission for Enhanced Energy Efficiency
34. **NMSA:** National Mission of Sustainable Agriculture
35. **NMSH:** National Mission on Sustainable Habitat
36. **NMSHE:** National Mission for Sustaining the Himalayan Ecosystem
37. **NMSKCC:** National Mission on Strategic Knowledge for Climate Change
38. **NSM:** National Solar Mission
39. **NWM:** National Water Mission
40. **OECD:** Organisation for Economic Co-operation and Development
41. **OFWM:** On-Farm Water Management
42. **OHCHR:** Office of the United Nations High Commissioner for Human Rights
43. **PKVY:** Parampragat Krishi Vikas Yojana
44. **RAD:** Rain-fed Area Development
45. **SCC:** Supreme Court Cases
46. **SDGs:** Sustainable Development Goals
47. **SHM:** Soil Health Management
48. **SIDS:** Small Island Developing States
49. **UDHR:** Universal Declaration of Human Rights
50. **UN:** United Nations
51. **UNDP:** United Nations Development Programme
52. **UNEP:** United Nations Environment Programme
53. **UNFCCC:** United Nations Framework Convention on Climate Change
54. **UNGP:** United Nations Guiding Principles
55. **UN-REDD:** United Nations Collaborative Programme on Reducing Emissions  
from Deforestation and Forest Degradation
56. **WCP:** World Climate Programme
57. **WFR:** Warsaw Framework for REDD+
58. **WMC:** World Meteorological Congress
59. **WMO:** World Meteorological Organization

## **CHAPTER 1:**

### **INTRODUCTION**

#### **Introduction**

Decades have passed since men understood climate change's consequences and devised mitigation policies and strategies. However, the burden seems to be excessive on developing countries. Human rights are the fundamental rights that every human inherently owns. Even though, over the decades, it has been recognized and enforced by nations, many are yet to enjoy them. One cannot neglect climate change while discussing human rights violations. They are interlinked, so they cannot be separated without ignoring fundamental human rights. The right to a clean environment, right to health, right to development, right to food, right to clean water, and many more human rights are affected by climate change. For instance, the rise in temperature and drought results in decreased food production. By this approach, "climate change should be guided by relevant human rights norms and principles including the rights to participation and information, transparency, accountability, equity, and non-discrimination. Simply put, climate change is a human rights problem, and the human rights framework must be part of the solution."<sup>1</sup>

While discussing the history of this rights-based approach to climate change, the Inuit petition is considered a significant milestone. In 2005, the Inuit Circumpolar Conference, representing Inuit communities in the Arctic regions of the United States and Canada, filed a petition with the Inter-American Commission on Human Rights (IACHR). The petition alleged that the United States had violated the Inuit's human rights by failing to take adequate measures to mitigate climate change, which was causing severe impacts on their traditional lands and way of life.<sup>2</sup>

While the IACHR did not issue a decision on the merits of the case due to jurisdictional issues, the Inuit petition was groundbreaking in several ways:

---

<sup>1</sup> Understanding Human Rights and Climate Change, 2015, COP21, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>, (last visited 14 June, 2024).

<sup>2</sup> LAVANYA RAJAMANI ET. AL., HUMAN RIGHTS AND CLIMATE CHANGE: A REVIEW OF THE INTERNATIONAL LEGAL DIMENSIONS, 8 (The World Bank 2011).

- 1) It was the first attempt to hold a State accountable for human rights violations caused by climate change impacts.
- 2) It drew attention to the disproportionate impacts of climate change on vulnerable and indigenous communities, raising issues of environmental justice and discrimination.
- 3) It highlighted the potential role of human rights mechanisms and jurisprudence in addressing climate change, paving the way for further developments in this area.

After the Inuit petition, there was increased momentum and advocacy efforts to integrate human rights considerations into climate change policies and actions. While the Inuit petition did not result in a legally binding decision, it is widely recognized as a catalyzing event that brought the human rights implications of climate change to the forefront and contributed to the evolution of the rights-based approach in this area.

The Malé Declaration on the Human Dimension of Global Climate Change was the next most important milestone in advancing the rights-based approach to climate change. It was adopted in November 2007 at a meeting organized by the Alliance of Small Island States (AOSIS) and the Office of the UN High Commissioner for Human Rights (OHCHR) in Malé, Maldives. The declaration explicitly recognized that climate change has direct and imminent human rights implications, particularly for low-lying and Small Island States, affecting the enjoyment of fundamental rights such as the rights to life, food, water, health, and housing. The declaration highlighted the disproportionate impacts of climate change on vulnerable groups like indigenous communities, women, and children, calling for measures to protect their rights.<sup>3</sup>

The declaration called for increased international cooperation, technology transfer, and assistance to support adaptation efforts, particularly for developing countries and Small Island States. While not legally binding, the Malé Declaration influenced subsequent developments within the UN human rights system, including resolutions by the Human Rights Council and reports by the OHCHR, solidifying the recognition of the human rights dimensions of climate change. The Malé Declaration was significant because it was one of the first comprehensive statements from a group of affected States explicitly

---

<sup>3</sup> Climate Change and Human Rights: A Rough Guide, 2008, International Council on Human Rights Policy, [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136\\_report.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136_report.pdf) (last visited June 5, 2024).

framing climate change as a human rights issue and calling for the integration of human rights considerations into climate policies and actions.

Soon, in March 2008, the UN Human Rights Council adopted a Resolution 7/23 titled “Human Rights and Climate Change,” which was tabled by the Maldives. It was adopted in response to the Malé Declaration in 2007, which had requested the Human Rights Council to convene a debate on climate change and human rights. The Resolution requested the Office of the UN High Commissioner for Human Rights (OHCHR) to conduct “a detailed analytical study on the relationship between climate change and human rights.”<sup>4</sup> This led to the OHCHR publishing its landmark study in January 2009, which argued that climate change threatens the enjoyment of a wide range of human rights and that States have human rights obligations to address climate change. After considering the OHCHR’s report, the Human Rights Council decided in March 2009 to hold a panel discussion on the topic at its June 2009 session. The 2009 Resolution 10/4 reported the implications of climate change on human rights and discussed on the importance of application of human rights obligations in policy making.<sup>5</sup>

Later, bodies like the Organization of American States also examined the climate change-human rights nexus. Many regional human rights bodies, such as the European Court of Human Rights and the African Commission on Human and Peoples’ Rights, started to consider climate change-related cases and develop relevant jurisprudence.<sup>6</sup> Civil society groups, indigenous peoples, and human rights advocates kept campaigning and participating in climate negotiations to voice human rights concerns related to climate change. Explicit human rights framing did not initially gain major momentum in the UNFCCC process due to differences among States, some references were included in draft negotiating texts leading up to Paris. The 2015 Paris Agreement contained preambular references acknowledging the rights of indigenous peoples and the importance of human rights obligations in climate action; though the human rights framing remained relatively limited, it included various human rights principles.

---

<sup>4</sup> LAVANYA RAJAMANI ET. AL., HUMAN RIGHTS AND CLIMATE CHANGE: A REVIEW OF THE INTERNATIONAL LEGAL DIMENSIONS, 9 (The World Bank 2011).

<sup>5</sup> Ibid.

<sup>6</sup> *Climate Change and Human Rights: A Rough Guide*, 2008. International Council on Human Rights Policy, [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136\\_report.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136_report.pdf) (last visited June 12, 2024).

The human rights-based approach to climate change can bring better results in mitigating such violations. In a human rights approach, all individuals, including the vulnerable and marginalized, would be included, and an all-inclusive policy can be set forth for a sustainable solution. The study shows the legal gap in addressing the human rights breaches brought about by climate change. The international legal framework has developed various policies and strategies incorporating climate change aspects in human rights and vice versa. The policies and strategies of the government and various institutions lack any concrete approach based on human rights. Even judicial pronouncements directly connecting human rights to containing climate change are scarce.

However, the integration and implementation of the human rights-based approach in India is not positive. The nation lags behind other nation-states in its climate action for various reasons. The inherent inequalities and poverty are important issues along with development for this developing country. India's approach to climate change is covered in developmental excuses and co-beneficial plans. According to the database of *The Climate Change Laws of the World*, India holds only 48 laws and policies and 8 documents submitted to the UNFCCC while contributing 6.76% of global emissions.<sup>7</sup> This research will study the existing legal framework in India and its integration of a human rights-based approach to climate change. The research aims to highlight the need for a structured framework that effectively integrates human rights principles into climate action in India, ensuring equitable and sustainable outcomes while addressing the country's development priorities and identifying gaps and challenges.

### **Statement of Problem**

An approach based on human rights and its principles in climate action can provide a better framework than solely depending on environmental perspectives in India.

### **Research Question**

- Have the current international frameworks successfully integrated human rights principles into climate action?

---

<sup>7</sup> CLIMATE CHANGE LAWS OF THE WORLD, <https://climate-laws.org/geographies/india>, (last visited June 12, 2024).

- How far have human rights principles been incorporated into climate action in India?
- Do the current judicial precedents in India address human rights concerns related to climate change effectively?

### **Objective of Research**

- To analyze the role of human rights principles in climate action.
- To examine the adverse effects on human rights due to climate change, the right to life, the right to health, the right to adequate housing, the right to livelihood, the right to food and water and the rights of indigenous peoples and minorities.
- To analyze the international and Indian legal frameworks on the human rights-based approach to climate change.
- To critically analyze the extent of the application of human rights principles in climate litigation by the Indian judiciary.

### **Research Hypothesis**

India has not incorporated any concrete approach based on human rights to climate change measures to ensure equitable and sustainable development in climate action.

### **Research Methodology**

The research methodology adopted for this dissertation is the doctrinal method. The dissertation focuses on the laws and policies related to climate change and human rights principles, both nationally and internationally. The doctrinal study is based on collecting data from primary and secondary sources. The primary data sources used in this study include statutes, conventions, and the judicial decisions both at the national and international level. The secondary data sources used are books, encyclopaedias, reports, journals, newspaper articles, and websites.

### **Limitation of Study**

The research seems focused primarily on the Indian context. While analyzing India's approach, relevant international instruments and landmark judicial decisions have been touched upon, but a detailed international comparative analysis could provide more insights and best practices from other countries.

The research relies heavily on policy documents, reports, and case laws. Empirical data from field studies, surveys, or stakeholder consultations could strengthen the analysis by capturing ground realities and diverse perspectives. The same is not considered in this doctrinal research due to various constraints. While the research identifies gaps in policy and legislation, it may not delve deep enough into the practical challenges of implementing a human rights-based approach, such as institutional barriers, capacity constraints, and resource limitations.

Even though the researcher has tried including recent relevant materials for study, climate change is a rapidly evolving field, and policies, judicial precedents, and international frameworks may have undergone changes since the research was conducted, potentially limiting the relevance of some findings.

## **Chapterization**

- Chapter 1:

### Introduction

The introduction chapter provides an overview of the research topic, highlighting the importance of a human rights-based approach to addressing climate change. It outlines the research problem, questions, objectives, hypothesis, and methodology, setting the stage for the subsequent chapters.

- Chapter 2:

### Theoretical Framework: Human Rights and Climate Change

This chapter examines the theoretical framework connecting human rights and climate change. It discusses the concept of human rights, including civil, political, economic, social, and cultural rights, as well as collective rights. It explores how climate change impacts the enjoyment of various human rights, such as the right to life, livelihood, food, water, health, and adequate housing. It highlights the disproportionate impacts on marginalized groups and the principles of non-discrimination, equity, and procedural justice in climate action. The chapter also analyzes State obligations to respect, protect, and fulfil human rights in climate change, including mitigation and adaptation measures.



- Chapter 3:

#### International Legal Framework on Human Rights Approach to Climate Change

This chapter examines the international legal framework that supports a human rights-based approach to climate change governance and policymaking. It outlines key international treaties, declarations, and judicial decisions that recognize climate change as a human rights issue and require States to take adequate measures to mitigate and adapt to its impacts. The chapter highlights landmark cases from foreign jurisdictions that establish legal duties for States to protect human rights from climate threats, scrutinize the adequacy of national climate policies through a rights-based lens, and uphold principles like intergenerational equity and the rights of vulnerable groups.

- Chapter 4:

#### Indian Perspective on Human Rights Approach to Climate Change

This chapter discusses India's legislative and policy framework related to climate change mitigation and adaptation. It covers key laws like the Environment Protection Act, Energy Conservation Act, and National Green Tribunal Act, which indirectly address climate change. The chapter also outlines the National Environment Policy and National Action Plan on Climate Change (NAPCC), which encompass eight national missions. Additionally, it highlights the Coastal Regulation Zone Notification aimed at managing coastal areas in light of climate risks like sea-level rise. Overall, it presents India's multifaceted approach to tackling climate change through various sectoral policies and initiatives.

- Chapter 5:

#### An Analysis of Judicial Decisions on Climate Change in India:

The chapter analyzes judicial decisions in India related to integrating human rights principles into climate actions. It highlights landmark cases like *Ridhima Pandey v. India*<sup>8</sup>, where climate change was the fundamental issue that had a severe impact on various human rights. Other cases addressed issues like forest fires, greenhouse gas

---

<sup>8</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

emissions, and sustainable transportation, underscoring the judiciary's role in promoting environmental justice, protecting human rights, and driving sustainable climate policies. The analysis emphasizes the importance of a human rights-based approach to climate action and the courts' potential as a catalyst for transformative change in addressing the climate crisis.

- Chapter 6:

#### Findings, Suggestions and Conclusion

This chapter presents findings and suggestions for integrating a human rights-based approach to climate action in India. It highlights the progress made by India through policies and judicial decisions while identifying challenges such as lack of comprehensive legislation, development barriers, judicial capacity, and socioeconomic inequalities. The chapter emphasizes the need for a structured framework that addresses human rights concerns in climate action for equitable and sustainable outcomes.

## **Chapter 2:**

### **Theoretical Framework: Human Rights and Climate Change**

#### **Overview of the Concept of Human Rights**

Human rights are inherent to all human beings, irrespective of any status, encompassing various aspects from the right to life to the right to liberty. The International Bill of Rights, as well as core human rights treaties and obligations, further explain these principles. These rights are fundamental entitlements that belong to all individuals simply by virtue of their birth as humans to provide a better society. They cover a broad spectrum of rights, inclusive of civil, cultural, economic, political, and social dimensions, irrespective of factors like race, sex, nationality, religion, or ethnicity, as recognized and protected by the United Nations through a comprehensive human rights framework.<sup>9</sup>

#### **Universal Declaration on Human Rights**

The preamble to the UDHR states that the recognition that all human beings hold inherent and inalienable rights, along with inherent dignity, is the basic foundation of freedom, peace, and justice in the world. The 1948 Declaration states 30 Articles that detail certain human rights essential to humans. The UDHR was ratified on 10<sup>th</sup> December 1948 in the aftermath of World War II. The World War had destroyed the world with irreparable damage and human agony. The need to recognize basic rights as humans seemed to be the need of the hour after the establishment of the United Nations Organisation. This marked the beginning of the recognition of human rights in the modern world. Several other treaties and documents, both international and domestic, trace back their origin to the UDHR. The UDHR, along with the two Covenants (ICCPR and ICESCR), form the International Bill of Rights.

#### **Civil and Political Rights**

The International Covenant on Civil and Political Rights, along with its First Optional Protocol, came to force in 1976, and the Second Optional Protocol followed suit in 1991. The application of this multilateral treaty and its optional protocols is overseen by the Human Rights Committee. Freedom of movement, equality before the law, the

---

<sup>9</sup> UNITED NATIONS, <https://www.un.org/en/global-issues/human-rights> (last visited Feb. 19, 2024)

presumption of innocence, a fair trial, freedom of thought, conscience, and religion, freedom of opinion and expression, peaceful assembly, freedom of association, involvement in public affairs and elections, and protection of minority rights are all covered under the Covenant. It forbids the following practices: war propaganda, discrimination, arbitrary deprivation of life, torture, harsh or humiliating treatment or punishment, slavery and forced labour, arbitrary arrest or detention, and propagation of racial or religious hatred.<sup>10</sup>

### **Economic, Social, and Cultural**

In 1976, the International Covenant on Economic, Social, and Cultural Rights was implemented. The 18-member Committee on Economic, Social, and Cultural Rights oversees how the States parties to the Covenant carry out their obligations. In 2013, its Optional Protocol came into effect. The human rights that the Covenant aims to uphold and defend are, the right to fair and comfortable working circumstances; the right to social security; the right to a decent wage and the best possible quality of physical and mental health; the right to an education; and the right to take advantage of advancements in science and culture.<sup>11</sup>

### **Collective Rights**

Collective rights recognize that beyond individual human rights, certain groups have additional rights as collectives to protect their distinct identities, cultures, self-governance, lands, and ways of life against threats and discriminatory treatment. Various international instruments like the UN Declaration on the Rights of Indigenous Peoples enshrine these collective group rights. It is considered the third generation of rights after civil, political; and economic, social, and cultural. Many collective rights, especially over ancestral land and natural resources, are intergenerational, meant to be preserved and passed down across generations. A key collective right is the right of people to self-determination- to freely determine their political status and pursue economic, social and cultural development. Collective rights aim to protect the ability of groups to develop and promote their distinct group identities, cultures, traditions and institutions.

---

<sup>10</sup> UNITED NATIONS, <https://www.un.org/en/global-issues/human-rights> (last visited Feb. 19, 2024).

<sup>11</sup> Ibid.

## **Human Rights in India**

India is a party to the International Bill of Rights, except to the Second Optional Protocol to the ICCPR. As a consequence to the same, India enacted the Protection of Human Rights Act of 1993, which established the National Human Rights Commission. However, even before the ratification of the UDHR, India recognized certain human rights in its Constitution under Part III. Part III of the Constitution provides for fundamental rights that are enjoyed by people. Articles 12 to 35 of the Constitution of India detail such rights. India recognizes these basic human rights as fundamental to a dignified life. Besides these laws, India has also passed various legislations to protect human rights.

## **Fundamental Human Rights Principles**

Applying human rights principles is essential for the functioning of the Human Rights Based Approach (HRBA).

In the United Nations Sustainable Development Goals, Principle 1 of Universal Values states, “We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity... A just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met.”<sup>12</sup>

The principles of human rights are fundamental values and standards that underpin the concept of human rights. These principles serve as a foundation for protecting and promoting human rights for all individuals, regardless of nationality, race, gender, religion, or other status. Some key principles of human rights include:<sup>13</sup>

1. **Universality and Inalienability:** Human rights are inherent to all individuals, irrespective of their identity or circumstances. They apply universally to every person, without discrimination or exception. Every person on the planet has a right to them. They are a part of the human being and cannot be willingly given up. They

---

<sup>12</sup> UNITED NATIONS SUSTAINABLE DEVELOPMENT GROUP, <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach> (last visited Feb. 19, 2024).

<sup>13</sup> UNITED NATIONS SUSTAINABLE DEVELOPMENT GROUP, <https://unsdg.un.org/resources/human-rights-based-approach-development-coordination> (last visited Feb. 19, 2024).

cannot be taken away from him or her by others. The same is stated in the UDHR, “All human beings are born free and equal in dignity and rights.”<sup>14</sup>

2. **Equality and Non-Discrimination:** Human rights uphold the principle of equality, emphasizing that all individuals are equal in dignity and entitled to equal treatment and protection. Discrimination based on race, gender, religion, nationality, or any other grounds is prohibited.
3. **Interdependence and Inter-relatedness:** The fulfilment of one right frequently depends, fully or partially, on the fulfilment of other rights. For example, in certain situations, the fulfilment of the right to health care may rely on the fulfilment of the right to education or information.
4. **Indivisibility:** Human rights are indivisible. Civil, political, economic, social, and cultural rights are interconnected and mutually reinforcing. The full realization of one right often depends on the realization of others.
5. **Accountability and Rule of Law:** States and other duty-bearers are accountable for upholding, protecting, and fulfilling human rights. They have a responsibility to respect, protect, and fulfil the rights of individuals within their jurisdiction. They must adhere to the legal requirements and standards outlined in human rights instruments in this regard. If they fail to do so, aggrieved parties have the right to file a suit for suitable compensation before a competent authority in compliance with the legal guidelines and processes.
6. **Participation:** Human rights recognize the importance of meaningful and inclusive participation by individuals and communities in decisions that affect their lives. Participation provides a platform for voices to be heard and for individuals to shape policies and practices that impact them. These principles guide the interpretation and implementation of human rights at the international level and within national legal systems. They form the moral and legal framework for ensuring the inherent rights and dignity of every individual are respected and protected.
7. **Equity Principle:** The equity principle is also recognized by the United Nations Framework Convention on Climate Change (UNFCCC), stating parties to “protect the climate system for the benefit of present and future generations of humankind,

---

<sup>14</sup> Art. 1, Universal Declaration on Human Rights (1948).

on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.”<sup>15</sup>

### **Relationship Between Human Rights and Climate Change**

The UNFCCC defines climate change as “a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.”<sup>16</sup>

Climate change is a pressing issue that threatens our way of life as we know it. It will have far-reaching consequences, affecting various aspects of human existence, including food and water availability, energy sources, and biodiversity. Discussions surrounding climate change often revolve around technical terms such as emissions, carbon footprint, temperature rise, and low-carbon economy/technology, which pertain to the ecological and technological aspects of the issue. However, the study of climate change is inherently interdisciplinary, spanning across fields such as law, economics, science, international relations, as well as ethics and philosophy. The human rights and equity dimension of climate change policy should be at the forefront of all discussions aimed at tackling this global challenge.<sup>17</sup>

“The discussion consists of three main and potentially interconnected arguments: i) the environment constitutes a precondition for the enjoyment of human rights, ii) human rights should be used as tools to address environmental issues, ensuring adequate levels of protection and finally, iii) the necessity of integrating human rights and environmental protection in order to achieve sustainable development.”<sup>18</sup> All the three arguments provide important perspective to the relation between human rights and climate change.

---

<sup>15</sup> Art. 3 United Nations Framework Convention on Climate Change (1992).

<sup>16</sup> Human Rights Council, *Report of the United Nations High Commissioner on the Analytical Study on the Relationship Between Human Rights and the Environment*, (A/HRC/19/34).

<sup>17</sup> Richa Chauhan, *Climate Change: An Issue of Equity, Justice and Human Rights*, 2 ILI Law Review 13, 13-14 (2019).

<sup>18</sup> *Ibid.*

## **a) Impacts of Climate Change on the Enjoyment of Human Rights**

### **i. Right to life**

The UDHR recognize right to life as a basic human right stating that everyone has the right to life, liberty and the security of person.<sup>19</sup> Similarly, the Constitution of India also protects persons' right to life and liberty under Art 21. The protection under this right is not for a mere existence but also include everything that provides for a dignified life. Right to clean environment is also a part of it. Climate change drastically effects the right to life of people all over the world. As a result of climate change, the world has witnessed heat waves, floods, typhoons, droughts, and their dangerous impact on life. Superstorm Sandy in the USA, Typhoon Haiyan in the Philippines, and various floods in the South Asian region, in India are some of such instances. Similarly, extreme heatwaves occurred in July 2023 in various Northern Hemisphere regions, including China, Southern Europe, and Southwest of the USA and Mexico.<sup>20</sup>

The OHCHR Report stated that during the period 1980-2000, approximately 250,000 people were killed in tropical cyclones, and 120 million were affected annually. It increased during the period of 2000-2004 to 262 million people affected by climate disasters annually.<sup>21</sup>

The right to life is indirectly affected by drastic climate change, which results in the availability of food and water. The contribution of droughts and floods to a reduction in the availability of food and water is high. The effect on health also results in a negative impact on the lives of people.

### **ii. Right to food and water**

Article 11 of the ICESCR recognizes the right to an adequate standard of living, including adequate food, clothing, housing, and continuous improvement of living conditions. It requires States to take measures to ensure freedom from hunger, equitable food distribution, adequate housing policies with legal protection against forced

---

<sup>19</sup> Art 3, Universal Declaration on Human Rights (1948).

<sup>20</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 76 (Routledge, 2016).

<sup>21</sup> 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* (A/HRC/10/61)



evictions, and overall improvement of living standards through international cooperation if needed.<sup>22</sup>

Climate change is a global phenomenon that can exacerbate food insecurity, especially in vulnerable regions. One of the mandates given to the Special Rapporteur on the Right to Food is “to examine ways and means of overcoming existing and emerging obstacles to the realization of the right to food.”<sup>23</sup> Climate change poses an emerging obstacle to food production and availability in many parts of the world. Sustainable agricultural practices and policies resilient to climate change impacts would be crucial to achieving this goal.

Art. 11, even though it does not explicitly mention the right to water, it has been interpreted into the provision and the Committee on Economic, Social and Cultural Rights has recognized it as a part of a standard life. Climate change is expected to alter precipitation patterns and increase the frequency and intensity of droughts in many regions. This could reduce the availability and accessibility of safe drinking water supplies for many people. Rising sea levels due to climate change threaten to contaminate freshwater aquifers in coastal areas with saltwater intrusion, rendering water supplies unsafe for drinking and other uses. Extreme weather events like floods exacerbated by climate change can damage water infrastructure and contaminate water sources with pollutants. Changes in temperature and precipitation patterns induced by climate change may shift the geographic distribution of water-related diseases, putting more populations at risk.

Climate change impacts like droughts, floods and sea level rise could further strain sanitation infrastructure and services. Climate change poses risks of reduced access to safe, clean drinking water and sanitation for many people by straining existing vulnerable water resources and systems, which would undermine the full realization of the human rights recognized in this resolution. According to WHO, in 2000, approximately 1.1 billion people did not have access to an improved water supply, while 2.4 billion people lacked sanitation, and 2.3 billion people suffered from water-borne disease. About 1.5 million children die from water-borne diseases, annually.<sup>24</sup>

---

<sup>22</sup> Art. 11 International Covenant on Economic, Social, and Cultural Rights (1976).

<sup>23</sup> Human Rights Council, *Mandate of the Special Rapporteur on the right to food* (A/HRC/RES/6/2).

<sup>24</sup> SUMUDU ATAPATTU, *HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES* 80-83 (Routledge, 2016).

### iii. Right to health

The ICESCR states that everyone has the right to enjoy the highest attainable physical and mental health standards. It outlines steps States must take to realize this right progressively, including reducing infant mortality, improving hygiene, preventing diseases, and ensuring medical services. States have obligations based on available resources to fully realize this right through individual and international cooperation.<sup>25</sup>

Climate change poses significant threats to the realization of the right to the highest attainable standard of health. Global warming leads to decreased dependable access to water sources and disrupts natural ecosystems. Warmer and wetter conditions increase the range and season of disease vectors like mosquitoes that spread illnesses like malaria, dengue, yellow fever, and encephalitis.

Global warming will adversely affect the world's hydrological cycle, resulting in more droughts and floods. Droughts can lead people to resort to polluted water sources, causing epidemics of waterborne diseases. Floods increase the risk of drowning, crop destruction, and the spread of disease by extending the range of vectors and washing agricultural pollutants into drinking water supplies.<sup>26</sup>

### iv. Right to adequate housing

The ICESCR affirms the right to a satisfactory standard of living, which encompasses sufficient food, clothing, and housing, as well as ongoing improvements in living conditions. It is the responsibility of nations to ensure that individuals are free from hunger, promote equitable food distribution, establish sound housing policies, and protect citizens from forced evictions. Furthermore, the ICESCR emphasizes the importance of international collaboration to enhance living standards worldwide, especially in countries that require external assistance.<sup>27</sup>

According to the OHCHR report<sup>28</sup>, climate change affects housing in several key ways:

1. Extreme weather events: Climate change increases the frequency and intensity of extreme weather events like heavy rainstorms, cyclones, hurricanes, floods, droughts,

---

<sup>25</sup> Art 12 International Covenant on Economic, Social, and Cultural Rights (1976).

<sup>26</sup> Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, (A/61/214).

<sup>27</sup> Art. 11 International Covenant on Economic, Social, and Cultural Rights (1976).

<sup>28</sup> Human Rights Council, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, (A/64/255).

etc. These can directly damage or destroy housing, especially in unplanned settlements located in hazardous areas prone to flooding, landslides, etc.

2. Sea level rise: Rising sea levels due to climate change threaten coastal housing and settlements, especially in low-lying coastal areas and Small Island States. It increases exposure to coastal flooding, erosion, contamination of groundwater, etc.

3. Human mobility/displacement: Climate change is expected to lead to increased displacement and migration as people are forced to leave areas affected by sea level rise, drought, environmental degradation, etc. This increases pressure on housing in urban areas.

4. Urban slums: The report highlights that slum dwellers living in inadequate housing in hazardous locations within cities are among the most vulnerable to climate change impacts like floods, storms, lack of water, etc.

5. Rural housing: In rural areas, climate change impacts like drought, desertification, saltwater intrusion threaten housing by undermining livelihoods dependent on agriculture, fishing, etc.

6. Adaptation costs: Adapting housing and settlements to be more resilient to climate impacts like floods, storms, etc. requires significant costs that poor communities may not be able to afford.

The report emphasizes that climate change exacerbates existing inadequacies and vulnerabilities in housing, especially for low-income and marginalized groups. It calls for human rights-based approaches to mitigation and adaptation efforts related to housing.

#### **v. Right to livelihood<sup>29</sup>**

The right to a livelihood is protected under international human rights law. Climate change-induced displacement and relocation can threaten this right for many communities. Alternative housing can be provided much more easily compared to livelihood, which is closely associated with housing. Coastal communities relying on fishing may lose their livelihood if forced to relocate inland away from water bodies. If

---

<sup>29</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 80 (Routledge, 2016).

relocated to a different area, farming communities may lack access to sufficient arable land and water resources

While States can provide alternative housing as part of adaptation plans, securing alternative livelihoods is more challenging as traditional income sources like fishing or farming may no longer be viable in the new location. People may require skills training to engage in new livelihoods after relocation. Adaptation plans must ensure relocation sites are safe from disasters and located within reasonable proximity to income-earning opportunities to avoid long-distance commuting. Critically, any relocation adaptation plans must be done through consultation with affected communities to identify and facilitate alternative livelihood options. In addition to housing, climate relocation threatens other enshrined rights like the right to livelihood, which must be accounted for through participatory adaptation planning with displaced communities.

#### **vi. Rights of indigenous peoples and minorities**

Tropical forests offer numerous benefits beyond just serving as carbon sinks, including regulating rainfall, supporting biodiversity, preventing soil erosion, providing food and medicine for local communities, and holding cultural significance for indigenous peoples. Deforestation and forest degradation add approximately 17% of GHG emissions. This shows the significant role of forests in climate change. However, there are concerns that efforts to protect forests primarily for their carbon sequestration potential could restrict access and prevent forest-dependent communities from utilizing the resources they rely on for sustenance and livelihoods. While protecting tropical forests can be environmentally beneficial, it must be done in a way that balances conservation with the rights and needs of local and indigenous communities through participatory approaches. This involves ensuring sustainable use of forest resources while preserving vital ecosystem services, effectively making forest conservation a success for both the environment and the people who depend on forests for their way of life. Climate change directly threatens indigenous peoples through increased forest fires, droughts, and severe weather events like landslides and floods, disrupting forest ecosystems they rely on for food, shelter, and livelihoods, exacerbating their existing vulnerabilities.<sup>30</sup>

---

<sup>30</sup> Ibid, 177-186.

## **b) Human Rights Obligations and Climate Change**

### **i. State Obligations**

A State has tripartite duties to respect, protect, and fulfil human rights in climate change. It possesses a negative obligation to respect human rights by refraining from interfering in people's enjoyment of their rights and positive obligations to protect and fulfil human rights through various steps.<sup>31</sup>

#### **a) Duty to Respect Human Rights**

The State has the obligation to refrain from actions, policies, or laws that directly violate or impede the enjoyment of human rights in relation to climate change impacts. Ensure mitigation and adaptation measures do not discriminate against or disproportionately affect vulnerable groups. Avoid development projects/activities that degrade the environment, contribute significantly to emissions, or undermine resilience. Guarantee meaningful participation of affected communities, including free, prior, and informed consent for indigenous peoples. Part III of the Constitution of India calls for the State to refrain from interfering in people's enjoyment of their rights except according to law. The right to life under the Constitution imposes such a negative duty on the State.

#### **b) Duty to Protect and Fulfil Human Rights**

Contrary to the negative obligation, positive obligation imposes a duty on the State to take measures to protect and fulfil human rights. The Constitution of India is passing through its transformative phase. Transformative Constitutionalism has slowly changed the negative obligations of the State to positive obligations. Right to clean environment has been recognized as fundamental right under right to life through various judicial decisions. Thus, it is the duty of the State to protect those rights.

Climate change impacts like extreme weather events, water scarcity, and ecosystem changes hinder the enjoyment of various human rights enshrined in civil, political, economic, social, and cultural rights instruments. This creates an obligation for States to take adaptation measures to avoid or reduce these threats to human rights from climate change impacts, as noted by the Lahore High Court.<sup>32</sup>

---

<sup>31</sup> Benoit Mayer, *Climate Change Mitigation as an Obligation under Human Rights Treaties?*, 115 AM. J. INT'L L. 409, 411-419 (2021).

<sup>32</sup> Leghari v. Pakistan, WP No. 25501/2015.

However, adaptation alone is insufficient due to “biophysical limits” and resource constraints. States also have an implied obligation to mitigate climate change by reducing greenhouse gas (GHG) emissions to “hold the increase in global temperature below levels that would cause widespread harm to the enjoyment of human rights.” This reasoning was used by the UN Human Rights Council’s mandate holders and the Dutch Supreme Court in the *Urgenda case*<sup>33</sup> to interpret existing human rights treaties as requiring climate mitigation action. The benefits of a State’s adaptation policies in protecting human rights are more direct and immediate. In contrast, a single State’s mitigation efforts can only have a minor impact on global emissions and temperatures, providing little tangible benefit for its population in the short term. Effective mitigation requires international cooperation to achieve significant global emission cuts over the years to reflect lower atmospheric GHG concentrations, benefiting human rights.<sup>34</sup>

## ii. Extraterritorial Obligations

Extraterritorial obligations refer to the human rights obligations a State has towards individuals outside its own territory and jurisdiction. This arises from the understanding that human rights norms and treaties impose some obligations on States towards persons beyond their borders.

In the context of climate change mitigation discussed in the study, effective mitigation requires international cooperation and coordinated global efforts to significantly reduce overall emissions. While a State’s mitigation policies not only have benefits for human rights within its own territory, they also contribute to the collective goal of avoiding extensive harm to the enjoyment of human rights globally from unchecked climate change.

A State’s failure to mitigate climate change could extend its human rights obligations extraterritorial to impacts on individuals outside its borders. However, the prevailing view is that human rights treaties apply extraterritorially only in limited circumstances where a State exercises effective control over an area or individuals, such as in situations of belligerent occupation or physical custody. A State’s ability to nominally reduce global greenhouse gas emissions does not constitute effective control over

---

<sup>33</sup> *Urgenda Foundation v. State of the Netherlands*, [2015] HAZA C/09/00456689, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200113\\_2015-HAZA-C0900456689\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200113_2015-HAZA-C0900456689_judgment.pdf) (last visited June 12, 2024).

<sup>34</sup> Benoit Mayer, *Climate Change Mitigation as an Obligation under Human Rights Treaties?*, 115 AM. J. INT’L L. 409, 411-419 (2021).

human rights impacts like heatwaves occurring later in other parts of the world. While some authorities argue for extending extraterritorial obligations when a State exercises power affecting individuals' rights in a "direct and reasonably foreseeable manner," it is difficult to consider a State's emissions as having such a direct impact.<sup>35</sup>

The Inter-American Court's advisory opinion suggested extraterritorial obligations could apply in exceptional cases of a direct causal link between a State's act and human rights violations across borders, akin to shooting a bullet across a border. However, there is no such direct "smoking gun" to attribute impacts to an individual State's emissions for climate change impacts. Broadly applying extraterritorial obligations to global emissions impacts would go against language in human rights treaties limiting obligations to a State's "territory" or "jurisdiction." Even for treaties without explicit jurisdictional limits, extensive extraterritorial application of positive obligations would contradict State practice of differentiated measures inside and outside territories.<sup>36</sup>

### **iii. Obligations of Non-State Actors**

The obligations of corporations and international organizations are as significant as State obligations. Powerful non-state actors like multinational corporations have more direct impacts across borders through their global operations and emissions that could attract human rights responsibilities. MNCs, as major emissions contributors and implementers of climate policies, can have significant impacts, both positive and negative, on the enjoyment of human rights. They are also from the wealthiest, even richer than nations, thus making them important in the process of mitigation and adaptation. Similarly, international organizations like the UN and IPCC help establish authoritative norms, standards, and guidance on issues such as climate change and human rights obligations. Organizations like the UN Human Rights Council can play a role in monitoring State compliance with human rights obligations in the context of climate change. International organizations serve as platforms to negotiate and implement cooperative frameworks like the Paris Agreement.

The UN Guiding Principles on Business and Human Rights outline key obligations and responsibilities of MNCs on business-related human rights impacts from climate change. Businesses have a baseline responsibility to respect all internationally

---

<sup>35</sup> Ibid, 426-428.

<sup>36</sup> Ibid.

recognized human rights, including identifying, preventing, mitigating, and addressing adverse human rights impacts linked to climate change through their operations and relationships. This responsibility exists independently of States' duties and legal frameworks. To meet this responsibility, businesses must conduct ongoing human rights due diligence, assessing actual and potential climate-related rights impacts, taking appropriate action to address those impacts, tracking responses, and communicating efforts. Policy coherence across areas like procurement, lobbying, and incentives is essential.

Businesses should provide for the redressal of climate harms through operational-level grievance mechanisms, and remedies proportionate to their responsibility for severe impacts. Transparency through climate disclosure and reporting, including lobbying related to carbon-intensive activities, is crucial.

Other key expectations include respecting the right to participation through meaningful consultations, especially with indigenous peoples; contributing to a just transition by supporting decent jobs and discontinuing harmful activities; and enabling affordable access to environmental sustainability technologies to uphold the right to benefit from scientific progress. Overall, the UNGPs establish heightened human rights due diligence, remediation, and policy coherence responsibilities for businesses concerning their climate change impacts on human rights.<sup>37</sup>

c) **Climate Change as a Human Rights Issue**

i. **Vulnerability and disproportionate impacts on marginalized groups**

Climate change does not impact everyone equally or in the same way. Its effects exacerbate and amplify existing patterns of vulnerability, inequality, and discrimination within and across societies. Certain groups and communities face disproportionate and more severe impacts due to various risk factors that increase their susceptibility and undermine their ability to cope, adapt, and build resilience.

Those most at risk include women, children, indigenous peoples, ethnic minorities, persons with disabilities, the poor, and those in developing countries with limited resources and capacity. Their higher exposure to climate hazards like droughts, floods, and sea level rise is compounded by factors like systemic discrimination, socio-

---

<sup>37</sup> OHCHR, *Guiding Principles on Business and Human Rights Implementing the United Nations "Protect, Respect and Remedy" Framework*, (HR/PUB/11/04).



economic disadvantages, lack of legal protections, insecure land rights, and tenuous livelihoods.

For instance, women's roles as primary caregivers, unpaid labourers and providers of food, water and energy in many contexts increase their vulnerability and burden during climate crises. Indigenous peoples with profound ties to their ancestral lands face existential threats from environmental degradation. Minorities often inhabit precarious settlements more prone to disasters. The poor lack the financial resources to adapt or recover. Small Island Developing States (SIDS) have contributed the least to global emissions of greenhouse gases but are worst affected States due to climate change and natural disasters.

Both rapid-onset disasters like cyclones, hurricanes, and flash floods, as well as gradual adverse impacts like desertification, soil degradation and sea level rise hit these marginalized populations hardest. They face higher mortality risks, damage to homes and property, loss of livelihoods, food and water insecurity, displacement, and adverse health consequences with limited means to cope.

Climate-induced water scarcity disproportionately burdens women and girls. Fetching water takes time away from income, childcare, and education. Pregnant/lactating women and caregivers require more water, increasing collection needs. Water collection exposes them to sexual abuse risks, violence for incomplete chores, and physical harm. Insufficient water access undermines maternal and child health. Water stress amplifies existing gender inequalities through increased unpaid labour, safety hazards, gender-based violence, and adverse health impacts on women and girls exemplifying how climate change exacerbates marginalized groups' vulnerabilities.<sup>38</sup>

Even in the aftermath, these groups are frequently sidelined and overlooked in relief, rehabilitation and recovery efforts that lack their participation and fail to account for their unique vulnerabilities and needs. Ad-hoc relocation policies have dispossessed indigenous communities from their traditional lands. Limited access to information, resources, insurance, and social safety nets further amplifies the disproportionate impacts they face. At the same time, these same marginalized groups have contributed the least to the greenhouse gas emissions and unsustainable overconsumption patterns

---

<sup>38</sup> *Water*, in CLIMATE CHANGE 2022- IMPACTS, ADAPTATION, AND VULNERABILITY 551, 587 (2023).

driving climate change. Yet they bear a vastly unequal share of the consequences - an embodiment of the climate injustice between and within countries.

This disproportionate adversity experienced by disadvantaged populations worldwide exemplifies why climate change is an issue of human rights and social justice at its core. It underscores the moral and legal obligation to prioritize the rights and needs of those most vulnerable through inclusive, equitable, and non-discriminatory mitigation and adaptation strategies guided by principles of environmental justice and equity. Failing to do so risks exacerbating inequalities and rolling back hard-won development gains.

## **ii. Principles of non-discrimination, equity, and procedural justice**

Climate change policies, mitigation, and adaptation measures must uphold core human rights principles of non-discrimination, equity, and justice in their design and implementation.

### **1) Non-Discrimination**

Climate action cannot discriminate against or disproportionately disadvantage already vulnerable or marginalized groups based on factors like gender, race, ethnicity, disability, etc. The equity, fairness, and justice principles are important in framing discussions around climate change mitigation and adaptation strategies. It emphasizes that decisions related to climate change should not exacerbate existing vulnerabilities and must involve consultation with affected stakeholders, especially marginalized and vulnerable groups. The principle of non-discrimination is highly relevant in this context.

The principle of non-discrimination requires that climate policies, decisions, and actions do not discriminate against or disproportionately impact certain groups based on factors such as race, gender, ethnicity, age, disability, or socioeconomic status. It calls for an inclusive and participatory approach that considers the diverse needs and perspectives of all affected communities, particularly those that are most vulnerable to the impacts of climate change.<sup>39</sup>

Incorporating the principle of non-discrimination into climate change mitigation and adaptation efforts can help ensure that marginalized and vulnerable groups are

---

<sup>39</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 127 (Routledge, 2016).

meaningfully consulted and their concerns are addressed in decision-making processes (procedural justice). The benefits and burdens of climate actions are distributed equitably, without disproportionately burdening already disadvantaged communities (distributive justice). Specific vulnerabilities and adaptation need of different groups are recognized and accounted for in climate policies and programs. Capacity-building and support are provided to enable effective participation and access to resources for vulnerable communities. Monitoring and evaluation mechanisms are in place to assess the differential impacts of climate actions on different groups and ensure non-discriminatory implementation.<sup>40</sup>

By upholding the principle of non-discrimination, climate change responses can be more inclusive, equitable, and responsive to the diverse realities and needs of all affected populations, ultimately promoting greater fairness and justice in the fight against climate change.

## **2) Equity**

There must be fairness and equity in how the burdens, costs and support for climate action are distributed across societies, communities, and groups. Support for adaptation should be prioritized for those most in need, vulnerable and historically disadvantaged. International instruments like the Rio Declaration, Kyoto Protocol, and Paris Agreement specify the principle of equity in climate actions. The equity principle is reflected in the United Nations Framework Convention on Climate Change (UNFCCC) such as the common but differentiated responsibility (CBDR) principle.

The equity principle in the context of climate change refers to the idea that the distribution of burdens and benefits related to mitigating and adapting to climate change should be fair and just. It recognizes that different countries and communities have varying levels of responsibility for causing climate change, as well as varying capabilities to address it. It suggests that countries that have contributed more to greenhouse gas emissions historically and have greater financial and technological resources should bear a larger burden in terms of mitigation efforts and providing support for adaptation in vulnerable countries. It also implies that the needs and circumstances of developing and least developed countries should be given priority, as

---

<sup>40</sup> Ibid.

they often face greater impacts from climate change despite having contributed very little to the problem.<sup>41</sup>

Furthermore, the equity principle acknowledges that within countries, certain communities, such as indigenous populations and marginalized groups, may be disproportionately affected by climate change and have specific adaptation needs that should be addressed in a fair and equitable manner. Overall, the equity principle aims to promote a just and balanced approach to addressing climate change, taking into account historical responsibilities, capabilities, and the varying vulnerabilities and needs of different countries and communities.

### **3) Procedural Rights**

The importance of three key procedural rights under international human rights law in environmental issues and climate change is the right to information, the right to participate in decision-making processes, and the right to remedies. These rights have become increasingly relevant and embedded in environmental governance mechanisms like environmental impact assessments and the Aarhus Convention. The Convention under Principle 1 establishes a connection between the substantive right to a healthy environment and procedural rights.

Specifically for climate change, the access to information regarding climate impacts, risks, policies etc. is a basic right that people should have. However, it notes that those living in poverty or facing marginalization are unlikely to be able to effectively exercise these participatory rights to information and decision-making involvement. Despite this challenge, such procedural rights play a vital role, particularly regarding climate change adaptation planning and measures at the local level. The central idea is that for adaptation strategies to be effective and human rights-compliant, there need to be mechanisms that uphold procedural rights like access to information, participation of impacted groups through consultations, and their ability to raise concerns or seek remedies.<sup>42</sup>

This aligns with the human rights-based approach that emphasizes the principles of non-discrimination, equity, empowerment, and inclusivity in climate actions. It enables

---

<sup>41</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 102-107 (Routledge, 2016).

<sup>42</sup> Ibid, 88.

those most vulnerable to climate impacts to have a voice and be involved in the decision-making processes that affect them. Affected populations, including marginalized groups, must have access to information, opportunity to participate meaningfully, and access to justice and remedy in climate-related decision-making processes. Central to a human rights-based approach is prioritizing the rights, needs and effective participation of those most vulnerable in both mitigation and adaptation efforts, in line with principles like substantive equality, non-retrogression and the rights of future generations.

## **Chapter 3:**

# **International Legal Framework on Human Rights Approach to Climate Change**

### **Introduction**

In recognition of the profound human rights implications of climate change, the international community has increasingly sought to integrate human rights principles and legal obligations into the global climate change policy framework. This chapter examines the key international legal sources supporting the human rights-based approach to climate change governance and policymaking, along with landmark judicial decisions that recognize and encourage this approach internationally.

The foundational international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), require States Parties to respect, protect, and fulfil human rights for all persons subject to their jurisdiction. While these core treaties do not explicitly reference climate change, their monitoring bodies have increasingly interpreted States' human rights obligations as encompassing duties relating to climate change mitigation, adaptation, and remedying climate harms.

The UN Human Rights Committee has affirmed that the right to life under the ICCPR requires States to take adequate measures to protect people from the threat of climate change, including by holding private actors accountable for emissions causing harm. The Committee on Economic, Social, and Cultural Rights has similarly interpreted the ICESCR as requiring States to mitigate climate change to prevent its adverse impacts on rights like health, food, water, and housing. These were discussed in Chapter 2 in detail.

In addition, core treaties protecting vulnerable groups like women, children, persons with disabilities, and indigenous peoples also protect human rights that are otherwise implicated by climate change.

## **Stockholm Declaration of United Nations Conference on The Human Environment, 1972**<sup>43</sup>

The Stockholm Declaration provides insight into the intrinsic connection between the environment and the well-being of humanity. It recognizes the environment as pivotal for physical sustenance and intellectual, moral, social, and spiritual growth, implying a right to a healthy environment. It highlights the duty of governments and people to protect the environment, suggesting that environmental protection is integral to human rights and development. The Declaration acknowledges the potential for environmental harm due to human action, underscoring the need for rights to safeguard against environmental degradation. It calls for international cooperation to address environmental challenges, reflecting a collective human right to a global commitment to a better environment.

Principle 1 of the Declaration promoted the responsibility to protect and preserve the environment for the present and future generations while recognizing the fundamental right to a quality environment. The do-no-harm principle, as understood from Principle 21 of the Declaration, is a basic link between human rights and environmental law. This principle is an important part of human rights, and the States are to undertake due diligence to ensure they do not harm their fellow nations.<sup>44</sup>

## **The First World Climate Conference, 1979**

The First World Climate Conference in 1979 urgently called for developing a unified approach to comprehend the climate system better and rationally utilize climate data. As a result, the World Meteorological Congress (WMC) established the World Climate Programme (WCP) in 1979 as an authoritative international scientific initiative. Its goals were to enhance the understanding of the climate system and apply that knowledge to assist societies dealing with climate variability and change. The main objectives of the WCP were to determine the physical fundamentals of the climate

---

<sup>43</sup> Stockholm Declaration on the Human Environment of the United Nations Conference on the Human Environment, June 16, 1972, 11 I.L.M. 1416 (1972), [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fwww.ipcc.ch%2Fapps%2Fnlite%2Fsrex%2Fnlite\\_download.php%3Fid%3D6471&psig=AOvVaw1Um36rCmjwyl0FVObPZQhG&ust=1717938309872000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjQ--uDicyGaxUAAAAAHQAAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fwww.ipcc.ch%2Fapps%2Fnlite%2Fsrex%2Fnlite_download.php%3Fid%3D6471&psig=AOvVaw1Um36rCmjwyl0FVObPZQhG&ust=1717938309872000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjQ--uDicyGaxUAAAAAHQAAAAAQBA) (last visited June 2, 2024).

<sup>44</sup> LAVANYA RAJAMANI ET. AL., HUMAN RIGHTS AND CLIMATE CHANGE: A REVIEW OF THE INTERNATIONAL LEGAL DIMENSIONS, 8 (The World Bank 2011).

system to enable increasingly accurate climate forecasting, to develop increasingly beneficial applications of climate information to boost economic efficiency, community health, food production, and wise water resource use, to identify socioeconomic impacts and national vulnerabilities to climate fluctuations and changes, and to develop and maintain a crucial global observing system fully capable of supporting the other three objectives.<sup>45</sup>

### **The Intergovernmental Panel on Climate Change, 1988**

The Intergovernmental Panel on Climate Change (IPCC) was established in 1988 by the collaboration of the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP). The primary aim of the IPCC is to furnish governmental bodies at various levels with scientific data for the creation of climate-related policies. Additionally, its publications play a crucial role in global discussions on climate change. The organization benefits from the contributions of numerous individuals worldwide towards its goals. Experts who are part of the IPCC volunteer their time to evaluate numerous scientific papers annually, creating a detailed overview of climate change drivers, impacts, risks, and strategies for adaptation and mitigation. The IPCC process relies on a thorough review by global experts and governments to guarantee an unbiased and comprehensive assessment that incorporates diverse perspectives and expertise. By assessing scientific consensus and highlighting research gaps, the IPCC guides future research directions without conducting its own studies.<sup>46</sup>

The First Assessment Report was published by the IPCC in 1990. The Report validated the scientific proof of climate change. This significantly influenced policymakers and the public, laying the groundwork for discussions on the Climate Change Convention.<sup>47</sup>

### **The Second World Climate Conference, 1990**

The second World Climate Conference took place from October 29 to November 7, 1990. The Conference emphasized in its Ministerial Declaration that climate change represented a distinctive global challenge necessitating a unified worldwide approach.

---

<sup>45</sup> WORLD METEOROLOGICAL ORGANIZATION, [https://community.wmo.int/en/world-climate-programme-wcp#:~:text=The%20declaration%20of%20the%20First,World%20Climate%20Programme%20\(WCP\)](https://community.wmo.int/en/world-climate-programme-wcp#:~:text=The%20declaration%20of%20the%20First,World%20Climate%20Programme%20(WCP)) (last visited June 10, 2024).

<sup>46</sup> IPCC, <https://www.ipcc.ch/about/> (last visited June 9, 2024).

<sup>47</sup> *Climate Change Information Sheet*, United Nations Environment Programme, <https://unfccc.int/resource/iuckit/infokit.pdf> (last visited June 9, 2024).



It urged the immediate start of discussions on a framework convention.<sup>48</sup> The focus was on equity, the shared but varying responsibilities of nations at diverse stages of development, and addressing climate change as a universal issue for humanity.

### **Rio Declaration on Environment and Development, 1992**

The Rio Declaration on Environment and Development from the 1992 United Nations Conference on Environment and Development does not directly address human rights in the context of climate change. The declaration precedes much of the international discussions and legal developments that explicitly link human rights and climate change impacts. However, there are several principles in the Rio Declaration that lay a foundation for integrating human rights considerations into environmental and sustainable development issues, which can be applied to climate change. Key principles that connect human rights to environmental issues are<sup>49</sup>:

- 1) Principle 1- Placing human beings “at the centre of concerns for sustainable development” and stating they are “entitled to a healthy and productive life in harmony with nature.” This suggests an underlying human rights basis for environmental protection.
- 2) Principle 3- Stating the “right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.” This hints at intergenerational equity as a human rights concern.
- 3) Principle 10- Calling for public participation, access to information, and access to judicial or administrative proceedings related to environmental issues. These procedural rights relate to human rights principles.
- 4) Principle 20- Highlighting the vital role of women’s “full participation” in achieving sustainable development, connecting to gender equality as a human rights issue.
- 5) Principle 22- Recognizing the rights and role of indigenous peoples in environmental management relating to indigenous rights.

---

<sup>48</sup> UNITED NATIONS, <https://www.un.org/en/chronicle/article/stockholm-kyoto-brief-history-climate-change#:~:text=Efforts%20to%20raise%20awareness%20of,a%20global%20response%20was%20required> (last visited June 8, 2024).

<sup>49</sup> Rio Declaration On Environment And Development, The United Nations Conference on Environment and Development, Having met at Rio de Janeiro from 3 to 14 June 1992, [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf) (last visited 10 June, 2024).

While not framed explicitly in terms of human rights, these principles from the Rio Declaration lay the conceptual groundwork for viewing environmental protection, sustainable development, and, by extension, climate change responses through a human rights lens focused on equity, public participation, gender, indigenous rights, and intergenerational justice. Subsequent international dialogues have built on this to integrate human rights considerations into climate policies and actions more directly.

### **The United Nations Framework Convention on Climate Change (UNFCCC), 1994**<sup>50</sup>

The United Nations Framework Convention on Climate Change (UNFCCC) lays the groundwork for international cooperation and action to address the global challenge of climate change. The Convention was drafted in 1992 and entered into force on 21 March 1994, providing an important foundation for integrating human rights considerations into the global climate governance framework.

Firstly, the Convention's ultimate objective, as stated in Article 2, is to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent "dangerous anthropogenic interference with the climate system."<sup>51</sup> This objective has significant human rights implications, as climate change impacts such as rising sea levels, extreme weather events, and disruptions to food and water supplies pose grave threats to the enjoyment of fundamental human rights, including the rights to life, health, food, water, and housing.

Moreover, the Convention recognizes the specific vulnerabilities and needs of developing countries, particularly those most vulnerable to the adverse effects of climate change under Article 4.8. This recognition aligns with the human rights principle of non-discrimination and the need to prioritize the rights of marginalized and vulnerable groups, who often bear a disproportionate burden from climate change impacts.

The Convention emphasizes the importance of international cooperation, information sharing, and capacity building, upholding equity principles and encouraging common but differentiated responsibilities. These are essential elements for ensuring that all

---

<sup>50</sup> The United Nations Framework Convention on Climate Change (UNFCCC) 1994, available at [https://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conven\\_g.pdf](https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conven_g.pdf) (last visited June 15, 2024).

<sup>51</sup> Ibid.

countries, particularly developing nations, have the resources and capabilities to effectively address climate change and protect the human rights of their populations.

While the UNFCCC itself does not explicitly mention human rights, its implementation and subsequent agreements, such as the Paris Agreement, have increasingly incorporated human rights language and principles. The Paris Agreement, for instance, recognizes the importance of respecting, promoting, and considering human rights obligations when taking climate action. Various UN human rights bodies, including treaty monitoring bodies and special procedures, have consistently highlighted the human rights implications of climate change and the need for a rights-based approach to climate action. These efforts have helped to reinforce the linkages between climate change and human rights within the UNFCCC framework.

However, it was in 2010, through the Cancun Agreement under the UNFCCC, that human rights were directly referred to for the first time with reference to UNFCCC.<sup>52</sup> It acknowledged the harmful impacts of climate change on individual's ability to exercise and experience their human rights fully. It urged nation-states to take measures to uphold and protect human rights in the context of climate change.

### **The Kyoto Protocol, 1997**

The Kyoto Protocol, a landmark international agreement, was adopted in 1997 with the aim of addressing the pressing issue of climate change. This Protocol, negotiated under the auspices of the United Nations, was a pioneering effort to get nations to commit to reducing their greenhouse gas emissions. The Kyoto Protocol was a significant step forward in the global fight against climate change, as it established legally binding targets for industrialized countries to reduce their collective emissions of greenhouse gases by 5.2% compared to 1990 levels. The Protocol represents four mechanisms- joint implementation, carbon trading, the bubble, and the clean development mechanism.<sup>53</sup>

However, the Kyoto Protocol has been the subject of much debate and criticism, particularly in light of the ongoing climate crisis. One of the primary criticisms of the

---

<sup>52</sup> United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its Sixteenth Session, held in Cancun from 29 November to 10 December 2010 FCCC/CP/2010/7/Add.1.

<sup>53</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 23-24 (Routledge 2016).

Kyoto Protocol is its limited scope.<sup>54</sup> The Protocol only required action from industrialized countries while exempting developing nations from any binding emissions reduction targets. This was a contentious issue, as many developing countries were contributing significantly to global greenhouse gas emissions and would need to be part of the solution. Furthermore, the Protocol's targets were criticized as being too modest, as the 5.2% reduction was seen by many as insufficient to address the scale of the climate change challenge meaningfully.

While the protocol established legally binding targets, there were no clear consequences for countries that failed to meet their obligations. This led to a lack of accountability and reduced the overall effectiveness of the agreement. Moreover, the Kyoto Protocol was hampered by conflicting national economic agendas and disputes between developed and developing nations over the cost and consequences of reducing emissions. This resulted in a lack of consensus and cooperation, further undermining the protocol's ability to drive meaningful action.

Despite these limitations, the Kyoto Protocol remains an important milestone in the global effort to address climate change. It established the principle of legally binding emissions reduction targets and laid the groundwork for future international climate agreements. The protocol also helped to raise awareness of the urgent need to address greenhouse gas emissions and their impact on the environment.

In the years since the Kyoto Protocol's adoption, the international community has continued to grapple with the challenge of climate change, with the adoption of the Paris Agreement in 2015 representing a more comprehensive and ambitious effort to address this global crisis. Paris Agreement, which has been ratified by nearly all countries, sets out a framework for all nations to contribute to the reduction of greenhouse gas emissions and to work towards the goal of limiting global temperature rise to well below 2°C above pre-industrial levels. While the Paris Agreement is not without its own challenges, it represents a more inclusive and dynamic approach to addressing climate change, with a focus on national ownership and continuous improvement over time.<sup>55</sup>

---

<sup>54</sup> UNITED NATIONS CLIMATE CHANGE, <https://unfccc.int/process-and-meetings/the-kyoto-protocol/what-is-the-kyoto-protocol/kyoto-protocol-targets-for-the-first-commitment-period> (last visited June 10, 2024).

<sup>55</sup> NRDC, <https://www.nrdc.org/stories/paris-climate-agreement-everything-you-need-know> (last visited June 14, 2024).

As the world continues to confront the urgent threat of climate change, the lessons learned from the Kyoto Protocol and the ongoing efforts of the international community, as exemplified by the Paris Agreement, will be crucial in shaping a more sustainable and resilient future.

### **Malé Declaration, 2007**<sup>56</sup>

The Malé Declaration on the Human Dimension of Global Climate Change was the next most important milestone in advancing the rights-based approach to climate change. It was adopted in November 2007 at a meeting organized by the Alliance of Small Island States (AOSIS) and the Office of the UN High Commissioner for Human Rights (OHCHR) in Malé, Maldives. The Declaration explicitly recognized that climate change has direct and imminent human rights implications, particularly for low-lying and Small Island States, affecting the enjoyment of fundamental rights such as the rights to life, food, water, health, and housing. The Declaration highlighted the disproportionate impacts of climate change on vulnerable groups like indigenous communities, women, and children, calling for measures to protect their rights.<sup>57</sup>

The declaration called for increased international cooperation, technology transfer, and assistance to support adaptation efforts, particularly for developing countries and small island States. While not legally binding, the Malé Declaration influenced subsequent developments within the UN human rights system, including resolutions by the Human Rights Council and reports by the OHCHR, solidifying the recognition of the human rights dimensions of climate change. The Malé Declaration was significant because it was one of the first comprehensive statements from a group of affected States explicitly framing climate change as a human rights issue and calling for the integration of human rights considerations into climate policies and actions.

---

<sup>56</sup> Male Declaration, available at [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fciel.org%2FPublications%2FMale\\_Declaration\\_Nov07.pdf&psig=AOvVaw38tDGKMpYCzFGxV6uxz2RZ&ust=1718088299561000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiow87lt9CGAxUAAAAAHQAAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fciel.org%2FPublications%2FMale_Declaration_Nov07.pdf&psig=AOvVaw38tDGKMpYCzFGxV6uxz2RZ&ust=1718088299561000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiow87lt9CGAxUAAAAAHQAAAAAQBA) (last visited June 5, 2024).

<sup>57</sup> *Climate Change and Human Rights: A Rough Guide, 2008*, International Council on Human Rights Policy, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136\\_report.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136_report.pdf) (last visited June 5, 2024).

## **United Nations - Reducing Emissions from Deforestation and Forest Degradation in Developing Countries, 2008**

UN-REDD was launched in 2008 and builds on the convening capacity and technical expertise of the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP). The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD) is the UN knowledge and advisory platform on the forest solutions to the climate crisis.<sup>58</sup>

Our goal is to help realise forest solutions to the climate emergency by avoiding carbon emissions and fostering carbon sequestration. In pursuing this international goal, UN-REDD promotes approaches that ensure the environmental integrity of carbon emissions reductions while supporting non-carbon benefits – from safeguarding biodiversity to supporting local livelihoods and promoting the rights of indigenous peoples.

Preserving forests is crucial for mitigating climate change as they act as major carbon sinks. However, efforts to protect forests have sometimes come at the expense of violating the rights of indigenous peoples who inhabit those forests. Examples include the forced evictions of Indigenous communities in Kenya to make way for conservation efforts.<sup>59</sup>

The REDD program, while aimed at incentivizing developing countries to reduce deforestation, has raised concerns about potential impacts on indigenous land rights. Many indigenous groups fear being barred from accessing forests vital to their livelihoods and cultures without their free, prior and informed consent (FPIC).

REDD+ is a climate change mitigation solution developed by Parties to the United Nations Framework Convention on Climate Change (UNFCCC). REDD+ goes beyond simply deforestation and forest degradation and includes the role of conservation, sustainable management of forests, and enhancement of forest carbon stocks. The framework is commonly referred to as the Warsaw Framework for REDD+ (WFR),

---

<sup>58</sup> UN-REDD PROGRAMME, <https://www.un-redd.org/about/restored-unredd-programme> (last visited June 8, 2024).

<sup>59</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 176 (Routledge 2016).

adopted at COP 19 in Warsaw in December 2013 and provides the complete methodological and financing guidance for the implementation of REDD+ activities. to advance the implementation of the Paris Agreement, particularly Articles 5 and 6, in order to reduce deforestation, promote sustainable land uses, advance international cooperative approaches to climate mitigation and mobilise climate finance to turn the tide on tropical deforestation.<sup>60</sup>

### **United Nations Guiding Principles on Business and Human Rights, 2011**

The UN Guiding Principles on Business and Human Rights are the world's most authoritative, normative framework guiding responsible business conduct and addressing human rights abuses in business operations and global supply chains. The Human Rights Council endorsed the Guiding Principles in its resolution 17/4 of 16 June 2011.<sup>61</sup> The document contains 31 principles under 3 pillars:

#### 1) PILLAR 1- THE STATE'S DUTY TO PROTECT

The first pillar covers principles 1 to 10. It requires States to protect human rights in the context of business operations by enacting effective policies, legislation, and regulations.

To induce businesses to respect human rights in the context of climate change, States should adopt and enforce a smart mix of laws, regulations and policies that encourage or oblige business to reduce emissions and to take other measures to prevent adverse human rights impacts resulting from climate change. This may involve requiring companies to exercise human rights due diligence, conduct environmental and climate impact assessments, and/or disclose greenhouse gas emissions and climate change impacts. Additionally, States should consider measures to encourage business to prioritize low-carbon and zero-carbon investments. Addressing the State/business nexus is also crucial. In such cases,

---

<sup>60</sup> UN-REDD PROGRAMME, <https://www.un-redd.org/about/about-redd> (last visited June 8, 2024).

<sup>61</sup> *Fact Sheet No. 38: Frequently Asked Questions on Human Rights and Climate Change*, OHCHR, [https://www.ohchr.org/sites/default/files/2021-09/FSheet38\\_FAQ\\_HR\\_CC\\_EN\\_0.pdf](https://www.ohchr.org/sites/default/files/2021-09/FSheet38_FAQ_HR_CC_EN_0.pdf) (last visited June 14, 2024).

States and State-owned enterprises could employ strict sustainability requirements in their procurement contracts.<sup>62</sup>

## 2) PILLAR 2- THE CORPORATE RESPONSIBILITY TO RESPECT

The second pillar covers principles 11 to 24. It outlines how businesses can address their negative human rights impact. Businesses should commit to human rights due diligence and enable remediation mechanisms. Corporate businesses are responsible for human rights violations and protection by respecting all internationally recognized human rights, including in the context of climate change. This means that they should avoid infringing on human rights by taking proactive steps to identify, prevent, mitigate, and address adverse impacts with which they are involved, including impacts resulting from climate change. Businesses should conduct human rights due diligence to identify, prevent, and mitigate climate-related human rights impacts, continuously assess how their environmental and climate impacts may lead to human rights harms, and prioritize the most severe human rights risks. Additionally, businesses should establish or participate in effective operational-level grievance mechanisms that can remediate climate and environmental concerns raised by affected persons and participate in good faith in legal or non-legal tribunals that promote accountability for climate harms. Furthermore, businesses should ensure policy coherence throughout their activities, strive for coherence between their responsibility to respect human rights and policies and procedures that govern their wider business activities and relations and set science-based targets throughout their operations to align with limiting global warming and pursuing efforts towards net-zero greenhouse gas emissions.<sup>63</sup>

## 3) PILLAR 3- ACCESS TO REMEDY

The third pillar covers principles 25 to 31. It stipulates that victims must have access to effective remedies, and that these remedies must be legitimate, accessible, predictable, equitable, transparent and rights compatible. The third pillar UNGPs focuses on the need for access to remedy for human rights abuses linked to business activities. It emphasizes the responsibility of States to ensure access to effective judicial and non-judicial mechanisms, such as environmental tribunals, national human rights

---

<sup>62</sup> *Climate Change and The Un Guiding Principles on Business and Human Rights*, OHCHR, <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/materials/KMBusiness.pdf> (Last Visited June 9, 2024).

<sup>63</sup> *Ibid.*



institutions, and OECD National Contact Points, to address human rights harms related to climate change. Additionally, it highlights the role of businesses in addressing climate-related human rights harms by establishing or participating in effective operational-level grievance mechanisms and participating in legal or non-legal tribunals that promote accountability for climate harms. This pillar underscores the importance of providing access to remedy for individuals and communities affected by climate-related human rights impacts, and it outlines the responsibilities of both States and businesses in this regard.<sup>64</sup>

These guiding principles impose human rights obligations upon the States and corporations. Climate Change and the UN Guiding Principles on Business and Human Rights provide these obligations in light of climate change. It puts forth that any law or policy created that involves business that impacts human rights in relation to climate change should align with the UNGPs. This creates a responsibility on corporate businesses to be more sensitive towards climate change as one of the largest contributors to climate change.

### **The Paris Agreement, 2015**

The Paris Agreement, adopted in December 2015 under the United Nations Framework Convention on Climate Change, marks a watershed moment in the fight against climate change. It succeeded the Kyoto Protocol and aimed to limit global temperature rise this century to well below 2 degrees Celsius while pursuing efforts to limit the increase even further to 1.5 degrees. Though lauded for its unprecedented global commitment, the Agreement's effectiveness and operational integrity remain subjects of debate among policymakers, scholars, and activists.<sup>65</sup>

The lead-up to the Paris Agreement was a complex process characterized by inclusivity and intense negotiation. It involved a dynamic interplay between developed and developing countries, each with unique economic and environmental concerns. The 20<sup>th</sup> Conference of the Parties in Lima laid the groundwork but also highlighted the

---

<sup>64</sup> Guiding Principles on Business and Human Rights, OHCHR (HR/PUB/11/04), [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf) (Last Visited June 10, 2024).

<sup>65</sup> Paris Agreement, 2015, [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Functad.org%2Fsites%2Fdefault%2Ffiles%2Fenglish\\_paris\\_agreement.pdf&psig=AOvVaw2pVLYFLFdcM3E7WiTB-&ust=1718088470719000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjI\\_qK2uNCGAxUAAAAAHQAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Functad.org%2Fsites%2Fdefault%2Ffiles%2Fenglish_paris_agreement.pdf&psig=AOvVaw2pVLYFLFdcM3E7WiTB-&ust=1718088470719000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjI_qK2uNCGAxUAAAAAHQAAAAQBA) (last visited June 12, 2024).

persistent divide: developed countries advocating for shared responsibility versus developing nations demanding legally binding emission cuts from the wealthier nations with financial support.

Negotiation sessions preceding COP21 and documents like the ‘Negotiating Text’ illustrated efforts to cultivate a consensus. Yet, these sessions repeatedly spotlighted the acute divergence in State perspectives. This divergence necessitated an iterative process resulting in a framework of proposals, ultimately leading to an Agreement with a unique blend of binding and non-binding elements. The final outcome was a balance of extensive negotiations and pragmatic compromise, leaving some environmentalists concerned over its sufficiency.<sup>66</sup>

Key to the Agreement’s substance is the Nationally Determined Contributions, which empower countries to set their emission targets, aiming to foster a bottom-up approach to climate action. This flexibility has its critics, who argue it lacks the stringency and urgency required to meet the targets of the Agreement, potentially leading to a cumulative effect insufficient to curtail global warming adequately. The Paris Agreement’s legal dimensions are equally nuanced. While it legally binds States to report their emissions and progress, it does not enforce the achievement of NDCs. This dichotomy raises questions about the Agreement’s overall enforceability and leaves its success contingent on political will and societal pressure.

Further, the Agreement addresses the developed world’s financial responsibilities to the developing nations, thus acknowledging the disproportionate impact of climate change. However, the specifics concerning the actual delivery and magnitude of financing remain vague and are often considered inadequate by developing.<sup>67</sup>

The Paris Agreement integrates the principles of human rights indirectly through its preamble and operational articles. While the agreement itself does not explicitly impose human rights obligations, it acknowledges the importance of respecting, promoting, and considering human rights in climate actions. Here’s an analysis of how it propagates human rights principles:<sup>68</sup>

---

<sup>66</sup> Margaretha Wewerinke Singh and Curtis Doebbler, *The Paris Agreement: Some Critical Reflections on Process and Substance*, 39 University of New South Wales Law Journal 1486, 1493-1495 (2016).

<sup>67</sup> Margaretha Wewerinke Singh and Curtis Doebbler, *The Paris Agreement: Some Critical Reflections on Process and Substance*, 39 University of New South Wales Law Journal 1486, 1508 (2016).

<sup>68</sup> Paris Agreement, 2015, <https://www.google.co.in/url?sa=i&url=https%3A%2F%2Functf.un.org%2Fsites%2Fdefault%2Ffiles%2F>

- 1) **Preambular References:** The preamble of the Paris Agreement includes explicit references to the importance of respecting human rights, the rights of indigenous peoples, gender equality, public participation, and sustainable development. Although preambular language is not legally binding, it sets the tone and context for the implementation of the Agreement, emphasizing that climate action should not come at the cost of human rights violations.
- 2) **Vulnerable Populations:** The Agreement pays particular attention to populations that are vulnerable to the adverse effects of climate change, which aligns with human rights principles focusing on vulnerable and marginalized groups. Through acknowledging their needs, the Agreement under Article 7.5 creates a framework that could spur actions and policies sensitive to the rights of these groups.
- 3) **Public Participation and Access to Information:** By emphasizing the importance of public participation in decision-making processes and the exchange of information under Article 12, the Agreement supports the rights to information and participation, which are essential components of environmental democracy.
- 4) **Right to Health:** Climate change directly impacts the right to health. By aiming to limit global warming, the Paris Agreement addresses the need to protect human health against risks such as extreme weather events, food security, and the spread of infectious diseases.
- 5) **Right to Development:** The Agreement recognizes the notion of climate justice and the right to development, particularly in its support of sustainable development goals. By focusing on financing and technological aid to developing countries, it seeks to ensure that these nations can progress towards a low-carbon future without compromising their development needs.
- 6) **Gender Equality:** The Paris Agreement acknowledges the importance of gender equality and the empowerment of women. Given that climate change often disproportionately affects women, who are frequently primary managers of household resources and first responders in crises, this recognition is a step toward mainstreaming gender considerations into climate action, thus supporting the principle of gender equality as a human right.

While these aspects show that the Paris Agreement can be compatible with the promotion of human rights, the depth of the integration of human rights principles into national climate plans depends greatly on individual States. States have the responsibility to enact laws and policies that not only reduce emissions but also uphold and advance human rights. The Agreement's language suggests that while it is not an outright human rights document, it propagates the need to include principles of human rights to achieve its goals.

In summary, while no single unified international treaty exists outlining human rights duties in the climate change context, an international legal framework centered on a human rights-based approach to climate policymaking has rapidly emerged from diverse sources across the UN human rights and environmental regimes. This evolving legal architecture requires States to urgently scale up climate mitigation and adaptation and remedy efforts to avert the most severe threats climate change poses to human rights globally. As climate impacts intensify, upholding and strengthening this international human rights framework for climate action represents a key challenge for the international community.

### **International Judicial Decisions**

The judicial decisions studied in this chapter only include those that granted the claims to petitioners and upheld human rights. These decisions by various courts around the world provide a proactive approach to claims related to climate issues. These precedents set the rights-based approach to climate change at a better pace.

#### **a) Pakistan**

##### ***Leghari v. Federation of Pakistan 2018***

In *Leghari v. Federation of Pakistan*<sup>69</sup>, the farmers petitioned before the Lahore High Court against the government for violation of their fundamental rights, particularly the right to life under Article 9 and the right to human dignity under Article 14 of the Constitution of the Islamic Republic of Pakistan 1973, by failing to implement proper climate action policies.

---

<sup>69</sup> Ashgar Leghari v Federation of Pakistan, (2015) W.P. No. 25501/2015, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180125\\_2015-W.P.-No.-25501201\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180125_2015-W.P.-No.-25501201_judgment.pdf) (last visited June 14, 2024).

The court recognized that the rights to life and human dignity encompass the international environmental principles of sustainable development, precautionary principle, environmental impact assessment, inter and intra-generational equity, and the public trust doctrine. The court acknowledged the shift from environmental justice, which focused on localized issues, to climate justice, which links human rights and development to achieve a human rights approach, safeguarding the rights of the most vulnerable and ensuring equitable sharing of the burdens and benefits of climate change. While the court recognized intergenerational equity as an interpretative aid for constitutional rights to life and human dignity, it did not make specific comments on the rights of future generations.

The concept of water justice, a sub-concept of climate justice, was introduced, recognizing that access to clean water is a human right closely tied to the environment, land, and other ecosystems. The court emphasized that climate justice and water justice are rooted in the constitutional rights to life and human dignity, as well as the constitutional values of social and economic justice. It recognized that addressing climate change requires a multidimensional approach, encompassing issues such as health security, food security, energy security, water security, human displacement, human trafficking, and disaster management. It was held that the right to life includes the right to a healthy and clean environment, treating the case as a Writ of Kalikasan<sup>70</sup>.

A 2018 report showed that 66% of the measures in the national policy had been implemented between the decision in 2015 and January 2017. The court agreed with the petitioner and constituted a standing committee on climate change to ensure the implementation of national policies and provide periodic updates. The court's decision aimed to build adaptive capacity and climate resilience by engaging multiple stakeholders, including government agencies, environmental organizations, and legal experts, to ensure the implementation of climate change policies and frameworks.<sup>71</sup> This case demonstrated the judiciary's proactive role in upholding human rights and environmental principles in the context of climate change, recognizing the interconnectedness of human rights, development, and environmental protection.

---

<sup>70</sup> A Writ of Kalikasan is a legal remedy for protecting the constitutional right to a healthy environment that originated from the Philippines legal system.

<sup>71</sup> Ashgar Leghari v Federation of Pakistan, (2015) W.P. No. 25501/2015, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180125\\_2015-W.P.-No.-25501201\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180125_2015-W.P.-No.-25501201_judgment.pdf) (last visited June 14, 2024).

**b) Colombia*****Future Generations v. Ministry of the Environment 2018***

In *Future Generations v Ministry of the Environment*<sup>72</sup>, 25 young people aged from 7 to 26 years sued different bodies of the Colombian government for their failure to reduce deforestation and ensure compliance with a target for zero-net deforestation in the Colombian Amazon by the year 2020, which was agreed under the Paris Agreement and the National Development Plan 2014-2018. The petitioners claimed to enforce their right to a healthy environment, life, health, food, and water.

The Supreme Court of Colombia's decision in this case is a landmark ruling that reinforces the inextricable link between human rights and environmental protection. The court's recognition of the Colombian Amazon as a subject of rights entitled to protection, conservation, maintenance, and restoration is a groundbreaking step in the realm of environmental jurisprudence. This decision underscores the principle that environmental degradation poses a serious threat to the fundamental rights of present and future generations, including the rights to life, health, water, food, and a dignified existence.

The court's analysis is grounded on the principles of precaution, intergenerational equity, and solidarity, which are deeply rooted in human rights principles and environmental law. The precautionary principle requires taking proactive measures to prevent environmental harm, even in the absence of scientific certainty, given the potential for irreversible damage. The court recognized the risk of damage posed by deforestation in the Amazon, including increased greenhouse gas emissions, temperature rise, ecosystem fragmentation, and the potential extinction of species.

The principle of intergenerational equity acknowledges the rights of future generations to inherit a healthy and sustainable environment. The court emphasized that the deforestation of the Amazon jeopardizes the rights of the children and young adults who brought the case, as well as future generations, to enjoy a stable climate and a habitable

---

<sup>72</sup> *Future Generations v Ministry of the Environment*, Ref No. 11001 22 03 000 2018 00319 00, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180405\\_11001-22-03-000-2018-00319-00\\_decision.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2018/20180405_11001-22-03-000-2018-00319-00_decision.pdf) (last visited June 12, 2024).

planet. This principle underscores the obligation of the present generation to safeguard the environment for the benefit of those yet to come.<sup>73</sup>

The principle of solidarity recognizes the shared responsibility of the Colombian State and its citizens to address the causes of deforestation and greenhouse gas emissions, not only for the well-being of their own people but also for the global community. The court highlighted the duty of the State to protect the environmental welfare of all inhabitants, both national and foreign, as well as ecosystems and living beings.

The court's decision is a testament to the growing recognition of the interdependence between human rights and environmental protection. It acknowledges that the realization of fundamental rights, such as the rights to life, health, water, minimum subsistence, and a dignified existence, is intrinsically linked to a healthy and sustainable environment. The decision emphasizes the need for a holistic and rights-based approach to environmental governance, one that considers the interests of present and future generations, as well as the intrinsic value of nature itself.

Moreover, the court's ruling is a powerful affirmation of the principles enshrined in international environmental law and human rights instruments, such as the ICCPR, the Stockholm Declaration, and the Paris Agreement on Climate Change. By invoking these international frameworks, the court underscores the global nature of environmental challenges and the shared responsibility of nations to address them.

### c) Netherlands

#### *Urgenda Foundation v. The State of the Netherlands 2020*

The *Urgenda v. Netherlands*<sup>74</sup> decision by the Supreme Court of the Netherlands is a landmark ruling that applies a human rights-based approach to climate change obligations under the European Convention on Human Rights (ECHR). The key elements of the court's analysis include the recognition of climate change as a human rights issue. The court found that the impacts of climate change, such as heat waves, drought, ecosystem disruption, and sea level rise, pose real and foreseeable risks to the rights to life under Art. 2 of ECHR and respect for private and family life under Art. 8

---

<sup>73</sup> Ibid.

<sup>74</sup> *Urgenda Foundation v. The State of the Netherlands*, [2015] HAZA C/09/00456689, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200113\\_2015-HAZA-C0900456689\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2020/20200113_2015-HAZA-C0900456689_judgment.pdf) (last visited June 12, 2024).

of ECHR, of Dutch residents. This brings climate change within the scope of the State's positive obligations to protect human rights under the ECHR.

While acknowledging climate change is a global problem, the court held that this does not absolve individual States of their responsibility to contribute their fair share of emissions reductions based on their specific circumstances and capabilities. Their accountability for the matter must be maintained. While the State has discretion, it must take measures that are actually "suitable" to avert the imminent climate danger without imposing an impossible or disproportionate burden.

The court affirmed that the judiciary can provide effective legal protection and hold the government accountable for its actions (or inactions) related to climate change, consistent with the right to an effective remedy under Article 13 ECHR. The court held that the reliance on international instruments was unnecessary and the issues could be dealt with within national standards. The principle of intergenerational equity can be applied to achieve the same result for sustainability.

Citing the IPCC reports, Paris Agreement goals, and statements from the EU and UNFCCC process, the court found a broad international consensus that developed countries like the Netherlands should reduce emissions by 25-40% below 1990 levels by 2020 to prevent dangerous climate change. The court ordered the Dutch State to reduce emissions by at least 25% by the end of 2020 compared to 1990, which is the lower limit of the internationally accepted range while leaving the specific policy measures to the government.<sup>75</sup>

This decision established a legal duty for States to take adequate action on climate change to protect human rights. It relied on international standards to concretize the human rights obligations related to climate change. This led to the creation of benchmarks for judicial review of government climate policies against human rights. It recognizes that the global nature of climate change does not negate individual State responsibilities. This precedent could inform further development of a human rights-based approach to climate change obligations in other jurisdictions and legal settings.

---

<sup>75</sup>Ibid.



d) **South Korea**

***Opinion of the National Human Rights Commission on the Constitutional Complaints on Constitutionality of Carbon Neutrality Act 2023***<sup>76</sup>

Four constitutional challenges were filed in South Korea against the Framework Act on Carbon Neutrality and Green Growth for Coping with Climate Crisis, also known as the Carbon Neutrality Act. The Nationally Determined Contributions established by Article 8(1) of the Carbon Neutrality Act and Article 3(1) of its Enforcement Decree, according to these complaints, are insufficient to meet the climate goals of the Paris Agreement and, as a result, do not adequately protect the plaintiffs' constitutional rights.<sup>77</sup> Even though the opinion was decided by the court in 2023, currently, the same issue is pending before the Constitutional Court of South Korea in the case of *Byung-In Kim et al. v. South Korea*.<sup>78</sup>

Climate change is comprehensively established as an urgent human rights emergency, given its potential to render the Earth increasingly unliveable and spark environmental migration crises, food, and water shortages, conflicts over scarce resources, and leave the more vulnerable populations homeless. Failing to address and halt climate change is tantamount to violating the human rights of present and future generations. The majority opinion, in this case, appears to be that Article 8, Section 1 of the Framework Act on Carbon Neutrality and Article 3, Section 1 of its Enforcement Decree, which set the greenhouse gas emission reduction target for South Korea at 40% below 2018 levels by 2030, are unconstitutional for the following reason:

- 1) Intergenerational Inequity and Violation of Equal Rights
  - The 40% reduction target by 2030 falls short of IPCC recommendations and international standards.
  - It would effectively deplete South Korea's remaining carbon budget well before 2030, leaving future generations to bear a disproportionate burden of making more drastic emissions cuts after 2030 to achieve carbon neutrality by 2050.

---

<sup>76</sup> Opinion of the National Human Rights Commission on the Constitutional Complaints on Constitutionality of Carbon Neutrality Act, available at <https://climatecasechart.com/non-us-case/opinion-of-the-national-human-rights-commission-on-the-constitutional-complaints-on-constitutionality-of-carbon-neutrality-act/> (last visited June 12, 2024).

<sup>77</sup> Ibid.

<sup>78</sup> *Byung-In Kim et al. v. South Korea*, Case No. 2021HunMa1264, available at <https://climatecasechart.com/non-us-case/byung-in-kim-et-al-v-south-korea/> (last visited June 12, 2024).

- This violates the constitutional principle of equality between present and future generations by unfairly transferring the burden to future generations.
- 2) Failure to Protect Fundamental Rights
- The reduction targets set are insufficient minimum measures to protect fundamental rights like the rights to life, health, and a healthy environment from the threats posed by climate change, as recognized under international human rights laws.
  - By not meeting internationally accepted standards, the law fails in the State's duty to take appropriate protective measures against climate change impacts that threaten citizens' basic rights.
- 3) Violation of Prohibition on Excessive Delegation
- The law only sets a 35% minimum reduction without clear standards/reasoning, excessively delegating target-setting to the executive branch's discretion.
  - It lacks sufficient guidance on staged reduction targets leading up to the 2050 carbon neutrality goal, violating the principle of legislative reservation on core issues restricting fundamental rights.

In essence, the majority found the emissions reduction targets unconstitutionally low and lacking in legal force, violating principles like legislative reservation while unfairly burdening future generations in violation of intergenerational equity and ultimately failing to fulfil the State's duty to protect fundamental rights from climate change threats as required under the Constitution and international human rights laws.

e) **ECtHR**

***KlimaSeniorinnen v. Switzerland 2024***

In *KlimaSeniorinnen v. Switzerland*<sup>79</sup>, the applicants, ranging from 64 to 92 years old, alleged that Switzerland had failed to take adequate measures to protect them from the negative impacts of climate change, thereby violating their rights under the European Convention on Human Rights. The applicants argued that climate change posed serious risks to their lives, health, physical integrity, property, and private and family lives. They cited increased risks of heatwaves, droughts, and other extreme weather events exacerbated by rising global temperatures. As elderly women, they claimed to be part of a particularly vulnerable group disproportionately affected by climate impacts. The court determined that Switzerland did not fulfil its affirmative duties according to the

---

<sup>79</sup> Verein KlimaSeniorinnen Schweiz v. Switzerland, Application no. 53600/20.

Convention regarding global warming, pointing out significant deficiencies in setting up a suitable internal regulatory structure, such as a carbon budget or national restrictions on greenhouse gas emissions. Additionally, Switzerland did not achieve its previous goals for reducing greenhouse gas emissions. The European Court of Human Rights (ECHR) takes a groundbreaking approach to linking human rights principles to climate change and government obligations.<sup>80</sup>

Firstly, it recognizes a human right to effective protection against climate change impacts. The court found that Article 8 of the European Convention on Human Rights, which protects the right to respect for private and family life, encompasses a right to effective State protection from the serious adverse effects of climate change on individuals' lives, health, well-being, and quality of life.

Secondly, it establishes positive obligations for States on climate action. The court held that Switzerland failed to comply with its positive obligations under Article 8 by not taking sufficient action through legislation and policies to address climate change and mitigate its effects on human rights.

Thirdly, it scrutinizes the adequacy of national climate policies. The court critically examined whether Switzerland's domestic regulatory framework, emissions targets, and implementation measures on climate change met the required effectiveness threshold to protect human rights.

Fourthly, it applies human rights principles to climate action. It found violations of Article 8 based on Switzerland's failure to meet past emissions targets and the critical gaps in its climate change mitigation laws and carbon budgeting.

Fifthly, it links the right to a fair trial to climate litigation. It held that Article 6, the right to a fair trial, applied to the applicants' complaint about Switzerland's failure to effectively implement existing climate mitigation measures under domestic law.

This landmark judgment elevates the urgency of climate action to a binding human rights imperative for European States. It applies foundational human rights principles to scrutinize the substantive adequacy and effective implementation of national climate policies through a rights-based lens.

---

<sup>80</sup> GLOBAL LITIGATION NEWS, <https://globallitigationnews.bakermckenzie.com/2024/04/17/verein-klimasenioren-schweiz-and-others-v-switzerland-european-court-of-human-rights-identifies-shortfalls-in-swiss-climate-mitigation-measures-and-access-to-justice/> (last visited June 12, 2024).

## **Conclusion**

The international legal framework on the human rights approach to climate change has evolved significantly over the past few decades, driven by growing recognition of climate change as an urgent threat to the enjoyment of human rights worldwide. While no single unified treaty exists outlining human rights obligations in the climate context, a robust framework has emerged from diverse sources across the UN human rights system, environmental law regimes, and judicial decisions.

Important milestones like the Stockholm Declaration, UNFCCC, Kyoto Protocol, Paris Agreement, and UN Guiding Principles on Business and Human Rights have progressively integrated human rights principles into global climate governance. However, it is still in its nascent stage and has more room for better integration of human rights into climate action. The human rights treaty bodies and special procedures have interpreted existing human rights treaties as requiring urgent climate action by States to prevent foreseeable harm. They have outlined procedural rights like access to information, participation, and remedy, as well as substantive obligations to mitigate emissions, support adaptation, and address loss and damage.

Various judicial decisions from courts of different jurisdictions have shown States' positive human rights obligations on climate change. These courts have scrutinized the adequacy of national climate policies against human rights standards, ordered more ambitious mitigation targets, and held both States and corporations accountable for climate harms based on human rights law. This also shows the need for climate adaptation plans, which are lacking in most policies, to avert the most severe threats climate change poses to human rights globally.

As climate impacts intensify, upholding and strengthening this international human rights framework for climate action represents a critical priority for the international community in protecting the rights of present and future generations. The human rights approach offers a concrete framework, a legally grounded path forward for global climate response.

## **Chapter 4:**

### **Indian Perspective on Human Rights Approach to Climate Change**

#### **Indian Legislations and Policies on Climate Change**

India, party to numerous environmental conventions, has adopted those principles in domestic laws. However, India still needs a legislation that directly deals with climate change at present. In most cases, climate-related issues are read into environmental legislation that expressly does not have climate change as a subject matter. To address the human rights implications of climate change, India has adopted various policies. Therefore, this chapter highlights that while India does not have a single comprehensive climate legislation, these various policies and statutes collectively form the legal and policy framework to address climate change domestically.

#### **a) The Environmental Protection Act of 1986**<sup>81</sup>

The Government of India enacted the Environment (Protection) Act (EPA) 1986 on 23 May 1986, considering the necessity to implement the principles in the Stockholm Declaration. The Environmental Protection Act of 1986 is a comprehensive legislation in India that provides for protecting and improving the environment. While the Act does not explicitly mention or deal with climate change, it can be interpreted broadly to include climate change within its scope and ambit.

Here's how the EPA 1986 relates to climate change:

- 1) Definition of "Environment": The Act defines "environment" in a very wide manner, including air, water, and land, as well as the interrelationship between these components and human beings, other living creatures, plants, and microorganisms. This broad definition allows climate change, which impacts multiple environmental components, to be covered.
- 2) Power to take measures: Section 3 of the Act empowers the Central Government to take "all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution."<sup>82</sup>

---

<sup>81</sup>The Environmental Protection Act of 1986, <https://www.indiacode.nic.in/bitstream/123456789/1876/4/A1986-29.pdf#search=environmental> (last visited June 14, 2024).

<sup>82</sup> Ibid.

- 3) Emissions standards: Under Section 6, the Central Government can prescribe allowable limits/standards for emissions or discharges of environmental pollutants from various sources. This power can be used to regulate greenhouse gas emissions that contribute to climate change.
- 4) Coastal zone regulations: The Coastal Regulation Zone Notification issued under this Act regulates development in coastal areas, which are highly vulnerable to sea level rise caused by climate change.

However, the EPA 1986 does not have any specific climate change-focused provisions. Legal experts argue that a separate framework of climate legislation is needed in India to consolidate existing laws and effectively address climate mitigation and adaptation challenges that existing laws are yet to provide.<sup>83</sup>

So, in short, while not designed specifically for climate change, the EPA 1986 has an overarching scope that allows climate-related regulatory measures to be taken under its provisions, albeit in a limited manner.

Under the Environment Protection Act of 1986, the Union Government issued the Environmental Impact Assessment (EIA) Notification in 1994. This notification mandates that any individual or entity seeking to start a new project in India or expand or modernize an existing industry or project must first obtain prior environmental clearance from the Ministry of Environment and Forests (MOEF). The EIA notification laid down the requirement of conducting an environmental impact study and getting approval before proceeding with projects that could have an impact on the environment. This notification was later replaced by the EIA Notification 2006. The dilution of Environmental Impact Assessment processes can significantly affect climate change mitigation and environmental protection efforts. When EIA regulations are weakened or not properly enforced, there can be several negative consequences. It can lead to less thorough and comprehensive assessments of environmental impacts, resulting in an incomplete understanding of a project's potential harm to the environment.<sup>84</sup> With strong EIA processes, the development and implementation of effective mitigation measures to reduce environmental harm, including greenhouse gas emissions, may be

---

<sup>83</sup> Chandra Bhushan and Tarun Gopalakrishnan, *Environmental Laws and Climate Action: A case for enacting a framework climate legislation in India*, International Forum for Environment, Sustainability and Technology (2021), available at <https://shaktifoundation.in/wp-content/uploads/2021/12/Environmental-Laws-and-Climate-Action.pdf> (last visited June 14, 2024).

<sup>84</sup> *Ibid.*

improved. Projects that could have significant negative environmental impacts might be approved without proper review, leading to greater damage to ecosystems, pollution, and contribution to climate change. Public participation is a key component of EIAs. Weaker EIA standards can diminish the opportunity for public input, reducing community involvement in decision-making processes that affect their local environment.<sup>85</sup> When EIAs are diluted, there is often a need for more accountability for the environmental and social consequences of development projects, making it harder to hold project proponents responsible for negative outcomes. Diluted EIAs may need to align with national and international environmental commitments, such as those under the Paris Agreement, undermining efforts to reduce greenhouse gas emissions and protect against climate change.

Moreover, the dilution concerns go higher with the draft 2020 EIA amendments that hamper public participation and approvals of ex-post facto and compliance checks. The Apex Court had held that ex post facto approval should be granted by the law, in strict compliance with the applicable rules, where the negative effects of the approval outweigh the consequences of regularising the operation of an industry by grant of ex post facto approval and the industry or establishment concerned otherwise conforms to the necessary pollution norms.<sup>86</sup>

*Ridhima Pandey v. Union of India*<sup>87</sup> highlights that, in India, there has been negligence toward the issue of climate change in the EIA process, with crucial climate-related information often needing to be provided. Furthermore, it points out that many projects, including those with significant environmental impacts, are not covered by the EIA Notification of 2006 and need to undergo proper impact assessments. This suggests that the dilution or ineffective implementation of EIAs could significantly hinder climate change mitigation efforts and environmental protection.

## **b) The Energy Conservation Act, 2001**

The Energy Conservation Act (EC Act) was enacted in 2001 with the goal of reducing the energy intensity of the Indian economy. The Bureau of Energy Efficiency (BEE) was set up as the statutory body on 1<sup>st</sup> March 2002 at the central level to facilitate the

---

<sup>85</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 118 (Prakash Kashwan ed., 2022).

<sup>86</sup> *Electrosteel Steels Ltd. v. Union of India*, W.P. (C) No. 2033/2015.

<sup>87</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

implementation of the EC Act. The Act provides a regulatory mandate for Standards and labeling of equipment and appliances, energy conservation building codes for commercial buildings, and energy consumption norms for energy-intensive industries. In addition, the Act enjoins the Central Government and the Bureau to take steps to facilitate and promote energy efficiency in all sectors of the economy. The Act also directs States to designate agencies for the implementation of the Act and promotion of energy efficiency in the State. The EC Act was amended in 2010. The main amendments of the Act concern the following: The Central Government may issue the energy savings certificate to the designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed. The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase an energy savings certificate to comply with the prescribed norms and standards. The Central Government may, in consultation with the Bureau, prescribe the value of per metric ton of oil equivalent to energy consumed.<sup>88</sup> Commercial buildings that have a connected load of 100 kW or contract demand of 120 kVA and above come under the purview of ECBC under the EC Act. The Ministry of Power, through the Bureau of Energy Efficiency (BEE), has initiated a number of energy efficiency initiatives in the areas of household lighting, commercial buildings, Standards & Labelling of appliances, demand side management in the agricultural sector and municipalities, SME's and large industries including the initiation of the process for development of energy consumption norms for industrial sub sectors, capacity building of SDA's etc.<sup>89</sup> The target of energy savings for these schemes during the XI plan period was set to 10,000 MW of avoided generation capacity.<sup>90</sup>

### **The Energy Conservation (Amendment) Bill, 2022**

The Bill amends the Energy Conservation Act, 2001, to empower the Central Government to specify a carbon credit trading scheme. Designated consumers may be required to meet a proportion of their energy needs from non-fossil sources.<sup>91</sup>

---

<sup>88</sup> Energy Conservation Act, <https://www.ica.org/policies/1975-energy-conservation-act> (last visited June 15, 2024).

<sup>89</sup> *National Energy Conservation Day (India)*, RITIRIWAZ, <https://www.ritiriwaz.com/national-energy-conservation-day-india-14th-december/> (last visited June 15, 2024).

<sup>90</sup> Energy Conservation Act, <https://www.ica.org/policies/1975-energy-conservation-act> (last visited June 15, 2024).

<sup>91</sup> The Energy Conservation (Amendment) Bill 2022, <https://prsindia.org/billtrack/the-energy-conservation-amendment-bill->



### c) **National Environment Policy, 2006**

This policy emphasizes the integration of environmental concerns into development processes, including measures to address climate change while promoting sustainable development and protecting human rights. The policy highlights the need for a comprehensive, evolving, and flexible national environment policy that provides a common approach to environmental management across sectors. It recognizes that India's development challenges and understanding of environmental concerns have evolved over time, necessitating a review of previous policies and strategies. It underscores sustainable development and human well-being enhancement as recurring themes in India's philosophy, with key aspirations of ensuring a decent quality of life and respecting environmental. It emphasizes balancing economic, social, and environmental needs.

The policy aims to reflect India's commitment to international environmental efforts and agreements. It is based on the constitutional mandate and judicial interpretations emphasizing a healthy environment as a shared responsibility of the State and citizens. It calls for a multi-stakeholder partnership approach involving the State, individuals, and institutions towards environmental protection. The overarching goal is to mainstream environmental concerns across all development activities.<sup>92</sup>

Climate change has emerged as one of the most pressing global environmental challenges with far-reaching consequences for ecosystems, livelihoods, economic activity and human well-being. As a developing country with a large population dependent on climate-sensitive sectors like agriculture, India faces heightened risks and vulnerabilities from the impacts of anthropogenic climate change.

The National Environment Policy, 2006 recognizes climate change as a threat that has “the potential, over the next few generations, to significantly alter global climate” and “result in large changes in ecosystems, leading to possibly catastrophic disruptions of livelihoods, economic activity, living conditions, and human health.” While not bearing significant responsibility for historical emissions, India finds itself having to confront

---

2022#:~:text=The%20Bill%20amends%20the%20Energy,needs%20from%20non%2Dfossil%20sources (last visited June 15, 2024).

<sup>92</sup> National Environment Policy, 2006,

[https://ibkp.dbtindia.gov.in/DBT\\_Content\\_Test/CMS/Guidelines/20190411103521431\\_National%20Environment%20Policy,%202006.pdf](https://ibkp.dbtindia.gov.in/DBT_Content_Test/CMS/Guidelines/20190411103521431_National%20Environment%20Policy,%202006.pdf) (last visited June 14, 2024).

and adapt to the disproportionate adverse effects like shifting precipitation patterns, threats to water resources, agricultural productivity losses, coastal inundation, and spread of vector-borne diseases.<sup>93</sup>

Responding to climate change is, therefore, an essential environmental policy priority for India, rooted in protecting the constitutional rights to a decent environment and ensuring sustainable development for its people. The policy advocates a nuanced and pragmatic approach balancing necessary mitigation efforts with critical adaptation requirements.

On mitigation, the policy upholds long-standing principles of “common but differentiated responsibilities” and “respective capabilities,” asserting India’s right to increase emissions to meet developmental needs from currently extremely low per capita levels. It calls for relying on multilateral approaches and equal per-capita entitlements rather than quantitative emissions reduction commitments that could constrain growth. Simultaneously, it encourages pursuing inherent co-benefits of sustainable development policies like energy efficiency, clean energy, urbanization, and lifestyle changes that avoid locking into emissions-intensive pathways.

The policy prioritizes building capacities to effectively participate in mitigation opportunities like the Clean Development Mechanism and voluntary partnerships with other countries.<sup>94</sup> However, the overriding emphasis remains on adaptation as India’s foremost climate change response imperative. It stresses identifying key vulnerabilities, assessing adaptation needs, and integrating adaptive measures into areas like water, agriculture, forests, coastal zones, and public health programs.

Ultimately, the National Environment Policy articulates a distinctly Indian approach to climate action- upholding the right to sustainable development and poverty eradication while pursuing low-emissions growth and enhancing resilience and adaptive capacities, especially of vulnerable communities. It charts a path of burden-sharing and international cooperation commensurate with “common but differentiated responsibilities” to combat one of the biggest existential challenges facing humanity.<sup>95</sup>

---

<sup>93</sup> Ibid.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

#### **d) National Action Plan on Climate Change (NAPCC), 2008<sup>96</sup>**

Vulnerability assessments and adaptation studies related to climate change were conducted across various sectors, including water resources, agriculture, forests, natural ecosystems, coastal zones, health, energy, and infrastructure, as part of India's Initial National Communication to the UNFCCC. Additionally, the Expert Committee on Climate Change Impact, established by the Ministry of Environment & Forests in June 2007, evaluated the effects of climate change on water resources, agriculture, natural ecosystems, health, coastal zone management, and climate modeling. Subsequently, reports from the Expert Committee were generated, leading to the implementation of various policies and initiatives aimed at tackling climate change within the framework of sustainable development.<sup>97</sup>

Launched in 2008, the NAPCC outlines eight national missions that address climate change mitigation and adaptation while promoting sustainable development and protecting vulnerable communities.<sup>98</sup> It outlines 8 national missions covering areas like solar energy, energy efficiency, sustainable agriculture, etc., to mitigate and adapt to climate change.

##### **i. The National Solar Mission**

It strives to advance the adoption of solar power in India to rival traditional fossil fuels. This initiative seeks to stimulate initiatives that support advancements in solar energy technology and enhance the cost-effectiveness of solar power generation and storage solutions.

The National Solar Mission (NSM), launched in 2010 under the National Action Plan on Climate Change (NAPCC), aims to promote solar energy and make it cost-competitive with fossil fuel-based energy options. The primary goals of NSM are to

---

<sup>96</sup> National Action Plan on Climate Change 2008, [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fstatic.pib.gov.in%2FWriteReadData%2Fspecificdocs%2Fdocuments%2F2021%2Fdec%2Fdoc202112101.pdf&psig=AOvVaw0H\\_RyYJNqGdYS79X\\_ec4n4&ust=1718088750406000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiYkYq7udCGAxUAAAAAHQAAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fstatic.pib.gov.in%2FWriteReadData%2Fspecificdocs%2Fdocuments%2F2021%2Fdec%2Fdoc202112101.pdf&psig=AOvVaw0H_RyYJNqGdYS79X_ec4n4&ust=1718088750406000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiYkYq7udCGAxUAAAAAHQAAAAAQBA) last visited June 14, 2024).

<sup>97</sup> Ministry of Environment, Forest and Climate Change, Impact of Climate Change and National Action Plan on Climate Change (last visited March 12, 2024), <https://pib.gov.in/newsite/erelcontent.aspx?relid=44098>.

<sup>98</sup> The National Action Plan on Climate Change (NAPCC) outlines eight missions focusing on adapting to and reducing the impact of climate change: National Solar Mission, National Mission for Enhanced Energy Efficiency, National Mission for Sustainable Habitat, National Water Mission, National Mission for Strategic Knowledge on Climate Change, National Mission for Sustainable Agriculture, National Mission for Green India, and National Mission for Sustaining the Himalayan Ecosystem.

enable the deployment of 20,000 MW of grid-connected solar power by 2022, develop off-grid solar applications, promote domestic manufacturing of solar components, and achieve grid parity by 2022. The initial targets were revised in 2015 to an ambitious 100 GW solar power capacity by 2022, comprising 40 GW from rooftop systems and 60 GW from large utility-scale projects. As of September 2017, India's installed solar capacity reached around 14.8 GW, making it the 7<sup>th</sup> largest solar installer globally. Solar tariffs have fallen drastically from Rs. 18/kWh in 2010 to around Rs. 2.44/kWh in 2017.<sup>99</sup>

The government promotes solar through capital subsidies, generation incentives, viability gap funding, concessional duties, renewable purchase obligations (RPOs) for utilities, green energy corridors, solar parks, and net metering. By promoting large-scale deployment of solar energy, the NSM directly contributes to India's climate goals of transitioning to a low-carbon economy and reducing greenhouse gas emissions from the power sector. However, key challenges include slow implementation of rooftop solar by utilities, non-compliance of RPOs, delays in signing PPAs, inadequate transmission infrastructure, intermittency issues, and lack of affordable storage solutions.<sup>100</sup>

## **ii. The National Mission for Enhanced Energy Efficiency**

This Mission strives to enhance energy efficiency across residential, commercial, and industrial domains in India through the establishment of supportive policies and the promotion of novel business strategies to boost energy efficiency.

The National Mission on Enhanced Energy Efficiency (NMEEE) is a crucial component of India's National Action Plan on Climate Change (NAPCC) that directly contributes to the country's climate mitigation efforts by promoting energy efficiency across different sectors. The National Mission on Enhanced Energy Efficiency has emerged as a key driver for promoting energy efficiency and mitigating greenhouse gas emissions from energy-intensive sectors in India. The flagship PAT scheme has demonstrated considerable success, paving the way for scaling up such initiatives

---

<sup>99</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume 1*, Centre for Science and Environment, [http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf) (last visited June 13, 2024).

<sup>100</sup> Ministry of New and Renewable Energy 2017, Standing Committee on Energy, available at [http://164.100.60.131/lsscommittee/Energy/16\\_Energy\\_32.pdf](http://164.100.60.131/lsscommittee/Energy/16_Energy_32.pdf) (last visited June 13, 2024).

across the economy.<sup>101</sup> However, addressing financing gaps, policy integration, and technological transition will be crucial to unlock NMEEE's full potential as an enabler of India's climate goals and sustainable energy future.

NMEEE aims to enhance energy efficiency and meet India's growing energy demands sustainably. It targets avoiding 19,598 MW of capacity addition, saving around 23 million tonnes of fuel per year, and reducing greenhouse gas emissions by 98.55 million tonnes annually at the full implementation stage.

PAT (Perform, Achieve and Trade) is the flagship program under NMEEE, covering 478 designated energy-intensive industrial units from 8 sectors like thermal power, iron & steel, cement, fertilizers, etc. In PAT Cycle I (2012-15), these units over-achieved the targeted 6.68 million tonnes of oil equivalent (MTOE) energy savings, resulting in 31 million tonnes of CO<sub>2</sub> emission reduction. PAT Cycle II (2016-19) expanded to cover 621 units from 11 sectors, targeting 8.869 MTOE savings. PAT has catalyzed investments of Rs. 25,000 crores in energy-efficient technologies and comprehensive capacity-building initiatives.<sup>102</sup>

The Mission also came up with other initiatives like Market Transformation for Energy Efficiency (MTEE) to accelerate market uptake of energy-efficient appliances, Energy Efficiency Financing Platform (EEFP) to promote financing for energy efficiency projects, standards and labeling programs for buildings, appliances and vehicles and promoting energy service companies (ESCOs) and public-private partnerships.<sup>103</sup>

NMEEE, especially through the success of PAT, has mainstreamed energy efficiency across major industries. It has created market demand for energy-efficient technologies and services while building technical capacities. Government initiatives like distributing LED bulbs and promoting clean cooking gas have complemented the mission's objectives. Overall, NMEEE is projected to contribute significantly to India's climate commitments through avoided emissions and energy savings.

---

<sup>101</sup> Planning Commission 2012, Five Year Plan, Vol. 1, available at [https://www.niti.gov.in/sites/default/files/2023-08/12fyp\\_voll.pdf](https://www.niti.gov.in/sites/default/files/2023-08/12fyp_voll.pdf) (last visited June 13, 2024).

<sup>102</sup>Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume I*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf)) (last visited June 13, 2024).

<sup>103</sup> Ibid.

However, it needs inter-sectoral coordination and an integrated policy approach for effective implementation, and limited financing options and payment security mechanisms for energy efficiency projects. It needs a broader inclusion of sectors like buildings, transport, etc. under PAT. A transition from investment-driven to technology-driven energy efficiency measures must be made.

### **iii. The National Mission for Sustainable Habitat**

The National Mission for Sustainable Habitat endeavors to promote sustainable urban development in India through policy frameworks, infrastructure enhancements, and research initiatives focusing on areas like buildings, waste management, water resources, and transportation. As India rapidly urbanizes, its cities have emerged as major contributors to greenhouse gas emissions and climate vulnerabilities. The National Mission on Sustainable Habitat (NMSH), launched in 2010 under the National Action Plan on Climate Change (NAPCC), aimed to integrate climate change mitigation and adaptation into urban planning processes. However, more than a decade later, the mission's impact remains limited, highlighting the urgent need for a revamped approach to sustainable urbanization.

The NMSH's objectives were laudable- developing standards for sustainable urban development, preparing climate-responsive city plans, promoting energy-efficient buildings and transportation systems, and building institutional capacities. Yet, the mission needed more specific targets and a clear roadmap for implementation, rendering it more of an advisory framework than an actionable plan.<sup>104</sup>

One of the few tangible outcomes has been the formulation of sustainable habitat standards by sub-committees covering areas like energy efficiency in buildings, urban transport, water supply, and waste management. However, the real challenge lies in mainstreaming these standards into urban planning processes, which remains a work in progress. Recognizing the need for convergence, the government envisaged channeling NMSH's activities through flagship urban schemes like the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and later the Atal Mission for Rejuvenation and Urban Transformation (AMRUT). While well-intentioned, this approach has led to the mission's dilution, as sectoral schemes like AMRUT, Smart Cities Mission, and Swachh

---

<sup>104</sup> Ibid.

Bharat Abhiyan have taken center stage, each addressing specific urban development goals.<sup>105</sup>

Consequently, the NMSH's overarching vision of integrating climate change concerns into holistic urban planning has been overshadowed by fragmented and siloed initiatives. For instance, while AMRUT focuses on improving urban infrastructure like water supply and sanitation, the Smart Cities Mission emphasizes technological solutions for efficient service delivery. These missions, though crucial, need to address the multifaceted challenges of sustainable urbanization comprehensively. Moreover, the lack of inter-ministerial coordination and synchronization between various urban development schemes has further impeded the NMSH's progress. Effective implementation requires a concerted effort to mainstream sustainable habitat principles across all urban interventions, from housing to transportation and waste management. Despite these challenges, there have been some positive developments, such as the release of model building bylaws, the Energy Conservation Building Code, and the National Urban Transport Policy.<sup>106</sup> However, their adoption and enforcement by State and local authorities need to be more robust, highlighting the need for stronger regulatory mechanisms and capacity-building initiatives.

As India braces for the impacts of climate change, its cities will be at the forefront of both vulnerabilities and potential solutions. The National Mission on Sustainable Habitat, though well-intentioned, has lost its way amidst a plethora of urban missions and schemes. To truly achieve sustainable urbanization, a revitalized approach is needed- one that integrates climate change considerations into all aspects of urban planning, fosters inter-agency collaboration, and empowers local authorities to implement robust sustainability measures.

#### **iv. The National Water Mission**

The Mission aims to secure sustainable water provision by preserving water resources, reducing wastage, and ensuring fair allocation of water reserves across India. The NWM has identified specific goals related to water conservation, augmentation, and efficient use of water resources in light of climate change impacts and was approved in 2011 by the Cabinet. These include creating a water database, increasing water use

---

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

efficiency by 20%, focusing on over-exploited areas, and promoting integrated water management.<sup>107</sup>

The mission envisages States preparing their own State Specific Action Plans (SSAPs) to conduct assessments, formulate water budgets and create integrated plans for water security till 2050. Grants have been provided to States to formulate these plans. Initiatives like the India-WRIS WebGIS system aim to create a comprehensive database and information system on water resources to support climate impact assessments and planning. The mission has conducted training programs to build the capacity of stakeholders on efficient water use, conservation measures, etc. Efforts have been made towards restoring water bodies, which can help recharge groundwater and regulate water flows. The mission has contributed to policy developments like the draft National Water Framework Bill and Model Groundwater (Sustainable Management) Act to enable better regulation and sustainable management of water resources in the face of climate risks.<sup>108</sup>

However, the reports show that implementation could have been faster, with activities like SSAPs, baseline studies, establishing new monitoring stations, etc, still in progress or needing more comprehensiveness. Effective decentralized governance structures are highlighted as a need for robust climate-responsive water management under the NWM.<sup>109</sup> In summary, while the NWM lays out a broad framework and initiates actions for climate-resilient water management, more concerted efforts are needed to operationalize the mission's strategies across the country fully.

#### **v. The National Mission for Strategic Knowledge on Climate Change**

It endeavors to establish an extensive knowledge framework to educate and facilitate climate change initiatives in India through research and communication strategies. The National Mission on Strategic Knowledge for Climate Change (NMSKCC) was established in 2010 under India's National Action Plan on Climate Change (NAPCC).

---

<sup>107</sup> National Action Plan on Climate Change 2008, [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fstatic.pib.gov.in%2FWriteReadData%2Fspecificdocs%2Fdocuments%2F2021%2Fdec%2Fdoc202112101.pdf&psig=AOvVaw0H\\_RyYJNqGdYS79X\\_ec4n4&ust=1718088750406000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiYkYq7udCGAxUAAAAAHQAAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fstatic.pib.gov.in%2FWriteReadData%2Fspecificdocs%2Fdocuments%2F2021%2Fdec%2Fdoc202112101.pdf&psig=AOvVaw0H_RyYJNqGdYS79X_ec4n4&ust=1718088750406000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwiYkYq7udCGAxUAAAAAHQAAAAAQBA) (last visited June 16, 2024).

<sup>108</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume I*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf)) (last visited June 13, 2024).

<sup>109</sup> Ibid.



Its primary objective was to create a robust knowledge platform to guide the country's climate policies and actions. By building capacities, facilitating research, and promoting information sharing, NMSKCC aimed to emerge as a strategic driver for evidence-based climate change responses.

However, more than a decade since its inception, the mission's progress could have been more active, and its impact was limited. One of the key achievements has been the formation of Global Technology Watch Groups (GTWGs) to track emerging climate-friendly technologies across sectors like renewable energy, agriculture, and water management. These GTWGs, focusing initially on solar photovoltaic, thermal, and storage technologies, were envisioned to facilitate commercial viability of suitable innovations by 2030. While this technology mapping exercise is a step in the right direction, it has progressed at a snail's pace due to financial and workforce constraints. Apart from the GTWGs, NMSKCC has made tentative forays into establishing centers of excellence at premier institutions like IIT Bombay and ICRISAT Hyderabad. It has also commissioned research projects on critical areas such as ocean acidification, regional climate modeling, and extreme rainfall events. However, these isolated efforts fall significantly short of the mission's grander vision of creating thematic knowledge networks, training a pool of climate researchers, and driving sustained public-private partnerships.<sup>110</sup>

A glaring gap has been the limited involvement of State Governments, which were expected to play a pivotal role by setting up nodal agencies and capacity-building initiatives. Lack of coordination between ministries and scientific institutions has further impeded NMSKCC's progress, leading to disjointed approaches and delays in implementation. Consequently, tangible outcomes like publication of technical reports, creation of regional climate models, and establishment of chair professorships have yet to be met.<sup>111</sup>

The need for a robust knowledge ecosystem cannot be overstated as India grapples with increasing climate vulnerabilities. NMSKCC was conceptualized to fill this critical gap

---

<sup>110</sup> Mission Document of National Mission on Strategic Knowledge for Climate Change, [https://dst.gov.in/sites/default/files/NMSKCC\\_mission%20document%201.pdf](https://dst.gov.in/sites/default/files/NMSKCC_mission%20document%201.pdf) (last visited June 14, 2024).

<sup>111</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume I*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf) (last visited June 13, 2024)).

by harnessing existing capacities and fostering new ones. However, its uninspiring performance so far raises concerns about the country's preparedness to tackle climate challenges through evidence-based policymaking and innovative solutions. To unlock NMSKCC's potential, a revamp is urgently required. Adequate financial resources must be allocated to support high-quality research, capacity building, and knowledge dissemination initiatives. Furthermore, improving inter-ministerial and inter-institutional coordination could prevent duplication of efforts and enable synergistic actions. Most importantly, State Governments must be actively engaged as key stakeholders, given the localized nature of climate impacts and adaptation strategies.<sup>112</sup>

In conclusion, while the National Mission on Strategic Knowledge for Climate Change had laudable goals, its implementation has been marred by funding shortages, manpower deficits, and coordination failures. Revitalizing this mission through targeted interventions could pave the way for a climate-resilient future by empowering policymakers, researchers, and communities with the requisite knowledge and capacities.

#### **vi. The National Mission for Sustainable Agriculture**

The National Mission for Sustainable Agriculture strives to enhance the sustainability, productivity, income generation, and climate adaptability of agriculture in India. These objectives will be met through enhancing capabilities, conducting research, and implementing infrastructural and institutional changes within the agricultural domain in India.

India's National Mission on Sustainable Agriculture (NMSA), launched in 2013, is a key component of the country's National Action Plan on Climate Change (NAPCC). The mission aims to promote sustainable agriculture practices through initiatives focused on soil and water conservation, water use efficiency, soil health management, and rainfed area development. While the NMSA has several positive elements that contribute to climate action, there is scope to strengthen its alignment with human rights principles to ensure a more equitable and inclusive approach to building resilience in the agriculture sector.

At its core, the NMSA's emphasis on sustainable farming practices, such as the System of Rice Intensification (SRI), organic farming through the Paramparagat Krishi Vikas

---

<sup>112</sup> Ibid.

Yojana (PKVY), and soil conservation measures, aligns with the broader goals of climate change mitigation and adaptation. Initiatives like the Rainfed Area Development (RAD) component, which adopts an area-based approach to natural resource conservation and development of farming systems, have the potential to enhance the adaptive capacity of agricultural communities. Similarly, the On-Farm Water Management (OFWM) component, which promotes efficient water application methods like drip irrigation, can play a crucial role in climate adaptation by optimizing water use in the face of increasing water scarcity. Soil Health Management (SHM) component focuses on promoting practices like residue management, organic farming, creation of soil fertility maps, appropriate land use based on capability, judicious fertilizer application, and minimizing soil erosion/degradation. These practices can contribute to climate change mitigation by reducing greenhouse gas emissions from agriculture and enhancing carbon sequestration in soils. The Climate Change and Sustainable Agriculture Monitoring, Modelling, and Networking (CCSAMMN) component aims to create a bidirectional system for disseminating climate change-related information and knowledge between land or farmers and research or scientific establishments. It can play a crucial role in enhancing the adaptive capacity of farmers by providing them with timely and relevant information on climate change impacts, appropriate adaptation strategies, and sustainable agricultural practices.<sup>113</sup>

However, from a human rights perspective, the mission's design and implementation could benefit from greater inclusivity and participation of marginalized groups, particularly small and marginal farmers. The plan suggests that the NMSA is currently designed extensively for large and medium-sized farms and landholdings, potentially overlooking the specific vulnerabilities and needs of small-scale farmers who are often the most affected by the impacts of climate change. Promoting greater participation and inclusion of these groups in the planning and implementation of the mission could enhance its alignment with human rights principles of non-discrimination and equality.

Furthermore, the mission could benefit from a more decentralized planning approach that empowers local communities and respects their right to participate in decision-making processes affecting their livelihoods. The States currently need more guidelines and capabilities to develop timelines, financial targets, and implementation strategies

---

<sup>113</sup> National Mission for Sustainable Agriculture (NMSA) Operational Guidelines, available at [https://nmsa.dac.gov.in/pdfdoc/NMSA\\_Guidelines\\_English.pdf](https://nmsa.dac.gov.in/pdfdoc/NMSA_Guidelines_English.pdf) (last visited June 14, 2024).

for the mission's components. A more decentralized approach, involving Panchayati Raj Institutions and community-based organizations, could strengthen the mission's responsiveness to local contexts and ensure that interventions are tailored to the specific needs and priorities of affected communities.<sup>114</sup>

Another area where the NMSA could be strengthened from a human rights perspective is its focus on adaptation. While the mission emphasizes sustainable agriculture practices, it lacks dedicated strategies and mechanisms to support farmers in adapting to the impacts of climate change, such as shifting weather patterns, prolonged droughts, and extreme weather events. Ensuring the rights of farmers to adapt to changing climatic conditions and protecting their livelihoods should be a key priority, as climate change poses a direct threat to the realization of the right to an adequate standard of living and the right to food.

The mission's resource allocation could also be better aligned with human rights principles of non-discrimination and equality. The highlight is that the actual achievement of funds has been limited primarily to the RAD component, while other components, such as soil health management and agroforestry, have received less attention. Conducting vulnerability assessments and prioritizing the allocation of resources to the most marginalized regions and communities could enhance the mission's alignment with human rights principles and ensure that those most in need receive the necessary support.<sup>115</sup>

Moreover, the NMSA could benefit from better integration with global frameworks such as the Sustainable Development Goals (SDGs) and the Sendai Framework for Disaster Risk Reduction, both of which have a strong emphasis on human rights principles. Aligning the mission's objectives and implementation strategies with these frameworks could help mainstream human rights into its design and execution, ensuring that interventions are developed and implemented in a manner that respects, protects, and fulfils the rights of affected communities.<sup>116</sup>

---

<sup>114</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume 1*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf)) (last visited June 13, 2024).

<sup>115</sup> Ibid.

<sup>116</sup> *Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70/1)*, available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf) (last visited June 15, 2024).

In conclusion, while the National Mission on Sustainable Agriculture has taken positive steps towards promoting sustainable agriculture practices and contributing to climate action, a stronger human rights-based approach focusing on inclusivity, participation, adaptation, equitable resource allocation, and integration with global frameworks could enhance its effectiveness and better align it with India's human rights commitments in the context of climate change. By prioritizing the rights and needs of the most vulnerable communities, the mission can play a crucial role in building resilience and ensuring the realization of fundamental human rights in the face of a changing climate.

### **vii. The National Mission for Green India**

It was adopted in 2014 with the aim to safeguard, improve, and revive forests while addressing climate change through suitable adaptation and mitigation measures. Its objectives include boosting forested areas and prioritizing various ecosystem benefits, notably biodiversity, water resources, biomass, mangroves, wetlands, and crucial habitats, alongside the additional advantage of carbon sequestration.

One of the main objectives of GIM is to increase forest and tree cover by 5 million hectares through afforestation and improving quality of existing forests on another 5 million hectares. This would help enhance carbon sequestration and climate resilience. The mission aims to restore and afforest degraded ecosystems like scrublands, shifting cultivation areas, cold deserts, mangroves, ravines and abandoned mining areas over 1.8 million hectares. This ecosystem restoration would improve ecosystem services.<sup>117</sup>

GIM plans to bring 3 million hectares under agroforestry/social forestry models, which can enhance tree cover outside traditional forests while supporting livelihoods. The mission targets increasing forest-based livelihood income for around 3 million households, thereby promoting sustainable use of forest resources. GIM has issued guidelines for converging with other schemes like MGNREGA and CAMPA funds for effective implementation. It also supports the use of modern technology like remote sensing for monitoring. The mission has launched the Nagar Van Udyan Yojana for creating urban forests of minimum 25 ha in cities.<sup>118</sup> So, while GIM has the potential to contribute significantly to India's climate goals through afforestation, ecosystem

---

<sup>117</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume I*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf)) (last visited June 13, 2024).

<sup>118</sup> Ibid.

restoration and sustainable forestry, concerted efforts are needed to operationalize the mission objectives across States and communities in a participatory manner. Proper implementation would be crucial for GIM to have a meaningful climate impact.<sup>119</sup>

However, the implementation has been very slow so far, with GIM still in a preparatory phase even after years of operation. Lack of adequate staff, capacity building at grassroots level and a siloed approach rather than cross-sectoral integration are cited as key challenges.

### **viii. The National Mission for Sustaining the Himalayan Ecosystem**

The Mission strives to advance comprehension of climate change effects and necessary adaptations in the Himalayan region. Findings from this initiative will contribute to shaping policies for effective management strategies tailored to the Himalayan ecosystem.

The Himalayan region is one of the most ecologically fragile and vulnerable areas to climate change impacts like glacial melt, biodiversity loss, and natural disasters. Recognizing this, India's National Action Plan on Climate Change (NAPCC) launched the National Mission for Sustaining the Himalayan Ecosystem (NMSHE) in 2014. While conserving this vital ecosystem is crucial, it is equally important that such efforts respect and promote human rights of communities dependent on it. The Paris Agreement, which India ratified in 2016, calls for climate actions to be guided by human rights principles like public participation, non-discrimination, and protection of vulnerable groups.<sup>120</sup>

To its credit, NMSHE has made some positive strides in this direction. One of its stated objectives is the promotion of community-based management approaches, indicating an intent to involve local stakeholders in decision-making processes related to the Himalayan ecosystem. The mission has also mapped civil society organizations working in this area, potentially facilitating their participation. Capacity building initiatives like the Indo-Swiss program on Himalayan glaciology aim to empower

---

<sup>119</sup> Ibid.

<sup>120</sup> *Thematic Task Force for The Indian Himalayan Region*, Department of Science and Technology, available at [https://dst.gov.in/sites/default/files/NMSHE\\_Task%20Forces\\_booklet.pdf](https://dst.gov.in/sites/default/files/NMSHE_Task%20Forces_booklet.pdf) (last visited June 15, 2024).

stakeholders by enhancing their understanding of climate impacts and adaptation measures.<sup>121</sup>

However, the available information suggests that NMSHE's incorporation of human rights principles needs to be expanded in its current scope and operationalization. There needs to be more evidence of substantive community consultation processes to identify vulnerabilities, assess impacts, and ensure free, prior and informed consent before planned interventions. Mechanisms for affected communities to raise grievances or hold duty-bearers accountable seem absent. While capacity building is positive, explicit efforts to prioritize the most vulnerable sections or safeguard their traditional livelihoods and knowledge systems are not mentioned. To truly align with the Paris Agreement's human rights dimensions, NMSHE would need to take a more comprehensive human rights-based approach. This should involve establishing participatory and representative decision-making structures involving all stakeholders, especially vulnerable and marginalized groups like indigenous communities. Human rights impact assessments and community consultations must be made mandatory throughout the policy cycle, from vulnerability mapping to adaptation planning and implementation.<sup>122</sup>

The mission should focus on identifying the most vulnerable communities through participatory processes and prioritize meeting their adaptation needs and benefits equitably. This could build on initiatives like vulnerability and hazard assessments already underway. Documentation and integration of communities' traditional ecological knowledge related to the Himalayan ecosystem should be actively supported. Any private sector involvement must align with the UN Guiding Principles on Business and Human Rights.

Finally, robust safeguards, grievance redressal mechanisms, and monitoring systems are essential to ensure transparency and accountability to rights-holders. Such measures are necessary for well-intentioned climate actions to avoid causing human rights harms like displacement, loss of livelihoods, or inequitable distribution of benefits.

---

<sup>121</sup> Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume 1*, Centre for Science and Environment, ([http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf) (last visited June 13, 2024).

<sup>122</sup> *Thematic Task Force for The Indian Himalayan Region*, Department of Science and Technology, available at [https://dst.gov.in/sites/default/files/NMSHE\\_Task%20Forces\\_booklet.pdf](https://dst.gov.in/sites/default/files/NMSHE_Task%20Forces_booklet.pdf) (last visited June 15, 2024).

e) **National Green Tribunal Act, 2010**<sup>123</sup>

The National Green Tribunal Act of 2010 established the National Green Tribunal (NGT) to adjudicate cases related to environmental protection, conservation of natural resources, and enforcing legal rights related to the environment, including those affected by climate change. The National Green Tribunal Act of 2010 does not directly address climate change issues. However, it provides a legal framework for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources. Some provisions that may be relevant to climate change include:

- a. Section 2(1)(c) defines “environment” to include air, water, land and the inter-relationship among them, which could cover issues related to climate change impacts.
- b. Section 14(1) gives the National Green Tribunal jurisdiction over civil cases involving a “substantial question relating to environment,” which could potentially include climate change-related matters.
- c. Section 15(1) empowers the Tribunal to provide relief, compensation, and restitution for environmental damage, which could be applied to climate change-induced damages.
- d. Section 20 requires the Tribunal to apply the principles of sustainable development and the precautionary principle while passing orders or decisions, which are important guiding principles in addressing climate change.
- e. The Schedule I lists several environmental laws under the Tribunal’s purview, like the Environment Protection Act, 1986, which could be used to address climate change issues indirectly.
- f. However, the Act does not explicitly mention “climate change” and does not provide specific mechanisms or mandates to directly tackle climate change-related disputes or mitigation/adaptation measures. Its focus remains more broadly on environmental protection and natural resource conservation.

---

<sup>123</sup> The National Green Tribunal Act 2010, [https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fgreentribunal.gov.in%2Fsites%2Fdefault%2Ffiles%2Fact\\_rules%2FNational\\_Green\\_Tribunal\\_Act%2C\\_2010.pdf&psig=AOvVaw0FCoHqjiTGX Mm9RqPekwax&ust=1718088870030000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjYs4\\_0udCGAxUAAAAAHQAAAAAQBA](https://www.google.co.in/url?sa=i&url=https%3A%2F%2Fgreentribunal.gov.in%2Fsites%2Fdefault%2Ffiles%2Fact_rules%2FNational_Green_Tribunal_Act%2C_2010.pdf&psig=AOvVaw0FCoHqjiTGX Mm9RqPekwax&ust=1718088870030000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjYs4_0udCGAxUAAAAAHQAAAAAQBA) (last visited June 14, 2024).



## **f) Coastal Regulation Zone Notification, 2011**

The Coastal Regulation Zone (CRZ) Notification was issued by the Ministry of Environment and Forests, India, dated January 6, 2011, and amended up to March 22, 2016.

Purpose of the Notification:

- i. To ensure livelihood security for fishing and other coastal communities.
- ii. To conserve and protect coastal stretches and marine areas.
- iii. To promote sustainable development based on scientific principles.
- iv. To take into account natural hazards, sea-level rise, and global warming.

The CRZ Notification 2011 through its para. 8 regulates the activities in different CRZs. This division allows for the protection of coastal areas that are ecologically vulnerable without completely disregarding development. The paragraph permits fishing communities in matters related to their livelihood in CRZ III, CRZ IV and even in areas requiring special considerations. Paragraph 3 provides certain activities prohibited in the Zone.<sup>124</sup>

Key Provisions:

- i. CRZ Declaration: Coastal stretches and water areas up to territorial limits are declared as CRZ, excluding Andaman, Nicobar, and Lakshadweep islands.
- ii. Restrictions: Setting up and expansion of industries, operations, or processes in the CRZ are restricted, especially those handling hazardous substances under para. 3 of the Notification.
- iii. Hazard Line Demarcation: Para. 5 (iii) and (v) provide for the mapping of hazard lines. A hazard line is demarcated considering tides, waves, sea-level rise, and shoreline changes, which is crucial for adapting to climate change impacts.

---

<sup>124</sup> Coastal Regulation Zone Notification 2011, <https://www.google.co.in/url?sa=i&url=http%3A%2F%2Fwww.environmentwb.gov.in%2Fpdf%2FCRZ-Notification-2011.pdf&psig=AOvVaw2PXpmVH4tK9sXMUJ1Fauch&ust=1718088969072000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjYoK-jutCGAxUAAAAAHQAAAAAQBA> (last visited June 14, 2024).

- iv. Permissible Activities: Para. 4 regulates some activities that are permitted if they require waterfront and foreshore facilities, considering the potential impacts of climate change.
- v. Environmental Impact Assessment (EIA): Required for activities that can significantly impact the coastal environment, including the effects of climate change.<sup>125</sup>
- vi. Disaster Management: Plans must include measures for disaster management and risk assessment related to climate change phenomena like cyclones and sea-level rise.
- vii. Coastal Zone Management Plans (CZMPs): CZMPs must be prepared by State governments, incorporating measures for climate change adaptation and mitigation. Involves public hearings and consultations, ensuring community input on climate change considerations. Project proponents must submit compliance reports, including adherence to climate change-related conditions. CZMPs are responsible for maintaining transparency, including decisions related to climate change adaptation measures.
- viii. In essence, the CRZ Notification integrates climate change considerations into coastal regulation by imposing restrictions on activities that could exacerbate climate-related risks, mandating EIAs, and requiring CZMPs to include climate change adaptation and mitigation strategies.<sup>126</sup>

## **Conclusion**

India has made significant efforts in integrating climate considerations into its environmental policies. Initiatives like the National Action Plan on Climate Change and its eight missions show a multifaceted approach to addressing climate challenges across sectors. The missions aim to promote sustainable development while enhancing resilience, particularly focusing on vulnerable ecosystems and communities. However,

---

<sup>125</sup> Para. 4.2 of the CRZ Notification states the procedure for clearance of permissible activities, which includes EIA Report, Disaster Management Report as well as Coastal Zone Management Authority approval.

<sup>126</sup> Coastal Regulation Zone Notification 2011, <https://www.google.co.in/url?sa=i&url=http%3A%2F%2Fwww.environmentwb.gov.in%2Fpdf%2FCRZ-Notification-2011.pdf&psig=AOvVaw2PXpmVH4tK9sXMUJ1Fauch&ust=1718088969072000&source=images&cd=vfe&opi=89978449&ved=0CAcQrpoMahcKEwjYoK-jutCGAxUAAAAAHQAAAAAQBA> (last visited June 14, 2024).

the implementation of these initiatives has often been hindered by challenges such as inadequate funding, limited institutional capacity, and insufficient inter-ministerial coordination. The policy only provides mitigation plans while not much on adaptation. Moreover, while some policies and missions acknowledge the importance of community participation and livelihood security, there is room for strengthening the incorporation of human rights principles more explicitly into climate action. SAPCCs provide better policies than NAPCC while being gender and caste inclusive.<sup>127</sup>

In the case of *Gaurav Kumar Bansal v. Union of India & Others*<sup>128</sup>, the applicant requested the Court to take steps to implement the National Action Plan on Climate Change (NAPCC) and ensure that State governments finalize and implement their respective State Action Plans without violating them. Since climate change poses unique challenges regarding causation and consequences, the judiciary is compelled to innovate legal interpretations within the existing environmental laws to address these challenges.

In its final order, the Green Tribunal did not directly rule on its jurisdiction over the implementation of the NAPCC. However, it stated that specific cases related to violations of the NAPCC, its impact, or consequences could be filed before the Tribunal in the future, adding to the confusion. Additionally, the Tribunal directed the States that had not yet drafted their State Action Plans in accordance with the NAPCC to prepare them expeditiously and get them approved by the Ministry of Environment, Forest and Climate Change.<sup>129</sup>

While India made significant efforts to integrate climate issues into its policy framework, it still lacks the same effort in environmental laws. India has enacted numerous environmental laws, including the EPA and NGT Act, which are detailed in this Chapter. However, climate change is an issue that has yet to be addressed by any such legislation in depth. Most legislation touches upon this subject only at its periphery. In the absence of such integration, specific climate legislation like Uganda's National Climate Change Act, 2021 is the way forward. The Act aims to provide a legal framework for addressing climate change impacts in Uganda, promoting adaptation and

---

<sup>127</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 130-131 (Prakash Kashwan ed., 2022).

<sup>128</sup> *Gaurav Kumar Bansal v. Union of India & Others*, Original Application No.325/2018.

<sup>129</sup> Eeshan Chaturvedi, *Climate Change Litigation: Indian Perspective*, 22 German Law Journal 1459, 1467 (2021).

mitigation measures, and supporting the transition to a climate-resilient and low-carbon economy.<sup>130</sup>

---

<sup>130</sup> National Climate Change Act, 2021, sec. 3 (Uganda).

## Chapter 5:

### An Analysis of Judicial Decisions on Climate Change in India

#### Introduction

The human rights framework provides guidance for more effective climate action by offering moral and strategic direction, with a central emphasis on fairness.<sup>131</sup> Additionally, the incorporation of human rights norms in climate actions, alongside principles of harm prevention and precaution, supports the idea of adjusting national fair shares to align with international climate objectives.<sup>132</sup> Scholars have been advocating for a human rights-based approach and a health perspective in climate action, stressing the importance of governments implementing intersectoral policies that integrate human rights principles.<sup>133</sup> In examining judicial decisions regarding integration of human rights principles into climate actions in India, it is apparent that the Indian judiciary is progressively addressing climate cases, demonstrating expansive thinking and serving as a catalyst for transformation.<sup>134</sup>

These references collectively underscore the significance of integrating human rights principles into climate actions, highlighting the judiciary's role in advancing climate justice and sustainability. By harmonizing climate policies with human rights norms, there is a potential to improve the effectiveness and equity of climate actions, ensuring that environmental decisions consider human rights principles and social justice. Analyzing judicial decisions related to integrating human rights principles into climate actions involves assessing the role of courts in advancing environmental justice and promoting the rights of communities affected by climate change.

A retrospective analysis of significant climate litigation decisions provides insights into stakeholder responsibility for climate change and the evolving legal landscape surrounding environmental challenges.<sup>135</sup> Studies have identified a growing body of

---

<sup>131</sup> Simon Nicholson & Daniel Chong, *Jumping on the Human Rights Bandwagon: How Rights-based Linkages Can Refocus Climate Politics*, 11 GLOB. ENV'T POLS. 121, 122 (2011).

<sup>132</sup> Lavanya Rajamani et al., *National 'Fair Shares' in Reducing Greenhouse Gas Emissions Within the Principled Framework of International Environmental Law*, CLIMATE POLICY 983, 984-985 (2021).

<sup>133</sup> Giulia Gasparri et al., *Integrating Youth Perspectives: Adopting a Human Rights and Public Health Approach to Climate Action*, 19 INT'L J. ENV'T RSCH. & PUB. HEALTH 4840, 4844 (2022).

<sup>134</sup> Gitanjali N. Gill & Gopichandran Ramachandran, *Sustainability transformations, environmental rule of law and the Indian judiciary: Connecting the dots through climate change litigation*, 23 ENV'T L. REV. 228, 239 (2021).

<sup>135</sup> Maria Tigre, *A look back at significant decisions in climate litigation in 2021 - Climate Law Blog*, CLIMATE LAW BLOG (Dec. 23,

climate cases that rely on human rights arguments, highlighting the intersection of human rights and climate action. This includes ‘just transition’ cases that address the distribution of benefits and burdens in the transition to a net-zero economy.<sup>136</sup>

An analysis of rights-based climate litigation underscores its potential as a transformative force in addressing climate change-induced loss and damage. This highlights the role of judicial decisions in advocating for climate justice and environmental protection.<sup>137</sup>

By examining judicial decisions within the context of integrating human rights principles into climate actions, researchers can gain insights into the effectiveness of legal mechanisms in promoting environmental justice, protecting human rights, and driving sustainable climate policies.

Broadly, it was identified that there are two categories of cases: (1) those cases where climate change forms the core of the legal arguments made by the petitioners and (2) those cases where the legal claims at issue relate to climate change concerns but do not explicitly refer to it.<sup>138</sup>

- **Cases Where Climate Change Forms the Core of the Legal Arguments:**

- a) *Ridhima Pandey v. India*<sup>139</sup>

The case of *Ridhima Pandey v. Union of India* is a landmark climate change litigation filed by a minor, Ridhima Pandey, against the Indian government for failing to take adequate measures to mitigate the effects of climate change. This case has brought climate change to the forefront of legal discourse in India and has garnered significant attention both nationally and internationally.

---

2021), <https://blogs.law.columbia.edu/climatechange/2021/12/23/a-look-back-at-significant-decisions-in-climate-litigation-in-2021/> (last visited June 14, 2024).

<sup>136</sup> Annalisa Savaresi & Joana Setzer, A first global mapping of rights-based climate litigation reveals a need to explore just transition cases in more depth - Grantham Research Institute on climate change and the environment, GRANTHAM RESEARCH INSTITUTE ON CLIMATE CHANGE AND THE ENVIRONMENT (Mar. 29, 2022), <https://www.lse.ac.uk/granthaminstitute/news/a-first-global-mapping-of-rights-based-climate-litigation-reveals-a-need-to-explore-just-transition-cases-in-more-depth/>.

<sup>137</sup> Margaretha Wewerinke-Singh, *The Rising Tide of Rights: Addressing Climate Loss and Damage through Rights-Based Litigation*, 12 TRANSNAT'L ENV'T L. 537, 538-543 (2023).

<sup>138</sup> ARPITHA KODIVERI, *Climate Change Litigation in India*, in LITIGATING THE CLIMATE EMERGENCY 364, 367-370 (2022).

<sup>139</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

Ridhima Pandey, a 9-year-old girl from Haridwar, Uttarakhand, filed an application in the National Green Tribunal through her legal guardian, father, against the Union of India, the Ministry of Environment, Forest and Climate Change, and several other government agencies. The petition alleged that the government's inaction and inadequate policies on climate change violated the fundamental rights of citizens, including the right to life, health, and a clean environment, enshrined in Article 21 of the Indian Constitution.

The petitioner argued that climate change posed a severe threat to the country's natural resources, ecosystems, and public health and that the government had failed to take necessary steps to address this issue. Specifically, the petition highlighted the government's inadequate National Action Plan on Climate Change, the lack of enforcement of existing environmental laws, and the continued reliance on fossil fuels as contributing factors to the worsening climate crisis. It was also submitted that the respondents failed to make efforts to integrate international commitments like the Paris Agreement into the domestic framework of law.

The petitioner's legal arguments centred around the government's violation of the fundamental rights guaranteed by the Indian Constitution, as well as the principle of intergenerational equity and the public trust doctrine.

- i.** Violation of Fundamental Rights: The petition argued that the government's inaction on climate change violated the petitioner's and future generations' fundamental rights to life, health, and a clean environment, as enshrined in Article 21 of the Indian Constitution. It contended that the adverse impacts of climate change, such as rising temperatures, extreme weather events, and sea-level rise, directly threatened these rights.
- ii.** Intergenerational Equity: The principle of intergenerational equity posits that the present generation has an obligation to preserve and protect the environment for the benefit of future generations. The petitioner claimed that the government's failure to address climate change violated this principle, as the adverse effects of climate change would disproportionately impact future generations.
- iii.** Public Trust Doctrine: The public trust doctrine holds that certain natural resources, such as air, water, and forests, are held in trust by the government for the benefit of the public. The petition argued that the government's inaction on climate change

violated this doctrine, as it failed to protect these natural resources from the impacts of climate change.

The *Ridhima Pandey v. Union of India* case has significant implications for climate change litigation and policy in India and globally.

- i. **Recognition of Climate Change as a Legal Issue:** The case has brought climate change to the forefront of legal discourse in India, recognizing it as a crucial issue that affects fundamental rights and requires legal intervention.
- ii. **Intergenerational Equity and Future Generations:** The case has highlighted the importance of considering the rights and interests of future generations in the context of climate change. It has emphasized the need for intergenerational equity and the preservation of the environment for future generations.
- iii. **Public Trust Doctrine and Environmental Protection:** The case has invoked the public trust doctrine, which obliges the government to protect natural resources for the benefit of the public. This doctrine can be a powerful tool in environmental litigation and policymaking.
- iv. **Impetus for Climate Change Policy:** The case has put pressure on the Indian government to strengthen its climate change policies and take more ambitious actions to mitigate and adapt to the effects of climate change.
- v. **Global Significance:** The case has garnered international attention and has become a part of the broader global movement for climate change litigation. It has contributed to the growing recognition of climate change as a legal issue and has inspired similar cases in other jurisdictions.

The National Green Tribunal (NGT), the specialized environmental court in India, initially dismissed the case in 2017, citing that the environmental impact assessment performed by the authorities cover the issue of climate change and thus cannot claim that international commitments like Paris Agreement are not integrated into the domestic framework of law. However, the petitioner appealed to the Supreme Court of India, which agreed to hear the case.

As of 2023, the case is still pending before the Supreme Court, with the Court issuing notices to the government agencies involved, seeking their responses to the allegations. The outcome of this case will have far-reaching implications for climate change policy and litigation in India and could set a precedent for similar cases worldwide.



Regardless of the outcome, the *Ridhima Pandey v. Union of India* case has already made a significant impact by bringing climate change to the forefront of legal discourse and highlighting the importance of intergenerational equity and the protection of natural resources. It has also contributed to the growing global movement of climate change litigation, where citizens and organizations are using legal avenues to hold governments accountable for their actions (or inactions) on climate change.

As the impacts of climate change become increasingly severe and tangible, cases like this will play a crucial role in shaping the legal landscape and compelling governments to take decisive actions to mitigate and adapt to the climate crisis.

**b) *Manushi Sangathan v. Government of Delhi*<sup>140</sup>**

The case law *Manushi Sangathan, Delhi v. Govt. of Delhi and Ors.* on 7 December 2012 primarily deals with the registration and licensing of cycle rickshaws and *thelas* (non-motorized vehicles) in Delhi. While the case does not directly address climate change, it has implications for promoting sustainable and eco-friendly transportation modes, which can contribute to mitigating the effects of climate change.

Climate change is primarily caused by the excessive emission of greenhouse gases, such as carbon dioxide (CO<sub>2</sub>), methane, and nitrous oxide, into the atmosphere. The transportation sector is a significant contributor to these emissions, particularly through the use of fossil fuel-powered vehicles. Encouraging and facilitating the use of non-motorized vehicles, such as cycle rickshaws and *thelas*, can help reduce the dependence on motorized transportation and subsequently lower the emission of greenhouse gases.

The judgment by the High Court of Delhi addressed several issues related to the registration and licensing of cycle rickshaws and *thelas*, with a focus on protecting the livelihood of the rickshaw pullers and promoting the use of non-motorized vehicles. The Court recognized the importance of cycle rickshaws as a viable mode of transportation, especially for short distances, and their role in providing last-mile connectivity to commuters using public transportation. The High Court held that the restriction on the plying of cycle rickshaws was arbitrary and violated the drivers' right to livelihood.<sup>141</sup>

---

<sup>140</sup> *Manushi Sangathan, Delhi v. Govt. of Delhi and Ors*, 2013 AD DEL 1 65.

<sup>141</sup> ARPITHA KODIVERI, *Climate Change Litigation in India*, in *LITIGATING THE CLIMATE EMERGENCY* 364, 368 (2022).

By simplifying the registration and licensing process for cycle rickshaws and ensuring that the requirements, such as proof of residence, do not create unnecessary barriers for rickshaw pullers, the Court aimed to encourage the use of these non-motorized vehicles. The Court's directives to the Municipal Corporation of Delhi (MCD) to expedite the registration process and issue licenses without unreasonable demands for documentation will likely lead to an increase in the number of cycle rickshaws on the roads of Delhi.

The widespread use of cycle rickshaws and other non-motorized vehicles can contribute to reducing the carbon footprint of the transportation sector in several ways:

- 1) **Reduced fossil fuel consumption:** Cycle rickshaws do not rely on fossil fuels for propulsion, thereby eliminating direct emissions from the vehicle itself.
- 2) **Decreased traffic congestion:** By promoting the use of cycle rickshaws, especially for short distances, the number of motorized vehicles on the road can be reduced, leading to less traffic congestion and lower emissions from idling vehicles.
- 3) **Promotion of active transportation:** Cycling, as a mode of propulsion for cycle rickshaws, encourages physical activity and can lead to a healthier population, further reducing the carbon footprint associated with healthcare.
- 4) **Improved air quality:** With fewer motorized vehicles on the roads, the level of air pollution, particularly in urban areas, can be reduced, contributing to better air quality and public health.

While the case law does not directly address climate change, its implications for promoting sustainable and eco-friendly transportation modes align with the broader goal of mitigating the effects of climate change. By recognizing the importance of non-motorized vehicles and removing barriers to their widespread adoption, the judgment paves the way for a modal shift towards more environmentally friendly modes of transportation in Delhi and potentially other urban areas.

• **Cases Where the Legal Claims at Issue Relate to Climate Change Concerns but Do Not Explicitly Refer to It:**

a) *Rajiv Dutta v. Union of India*<sup>142</sup>

The National Green Tribunal heard a case regarding large-scale forest fires in the States of Uttarakhand and Himachal Pradesh, which highlighted the significant impact of these fires on climate change and the need for effective mitigation plans.

The Central Pollution Control Board (CPCB) highlighted that forest fires are a major contributor to climate change through the release of greenhouse gases, aerosols, and changes in the earth's albedo (reflectivity). Specifically, forest fires emit carbon dioxide, which is the dominant greenhouse gas contributing to global climate change due to its heat-absorbing characteristics and long atmospheric residence time.

Furthermore, the CPCB emphasized that forest fires emit aerosols, including black carbon, which can have both cooling and warming effects on the atmosphere and surface. Black carbon absorbs solar radiation, leading to atmospheric warming and accelerating snow and glacier melting, which can have detrimental effects on the monsoon rainfall patterns and water resources in the Himalayan region.

The Tribunal acknowledged the adverse effects of forest fires on the environment, including the loss of biodiversity, degradation of air quality, and the impact on climate change. It recognized the failure of the authorities to implement the precautionary principle and the National Forest Policy, 1988, which mandates special precautions to be taken during the fire season through improved and modern management practices.

To address these issues, the Tribunal issued several directions aimed at mitigating the impact of forest fires and promoting effective prevention and control measures:

- 1) The Ministry of Environment, Forest and Climate Change (MoEF & CC) was directed to formulate a National Policy or Guidelines for forest fire prevention and control in consultation with States, to be updated periodically.
- 2) The MoEF & CC was instructed to issue directions under the Environment Protection Act, 1986, to States to prepare and implement effective Forest Fire Management Plans.

---

<sup>142</sup> *Rajiv Dutta v. Union of India*, M.A. No. 397 of 2017.

- 3) The Tribunal directed the Chief Secretaries of States to review and ensure the implementation of Forest Fire/Crisis Management Plans, allocating adequate resources and manpower for effective prevention, control, relief, rehabilitation, and restorative measures.
- 4) The States were directed to conduct forest fire vulnerability mapping, identify hotspots, and establish monitoring stations with automated surveillance systems and dedicated teams.
- 5) The Tribunal emphasized the involvement of local communities, Panchayati Raj Institutions, and the use of satellite-based alert systems, social media, and dedicated web portals for information dissemination and coordination.
- 6) The MoEF & CC was instructed to disseminate best practices to States based on experiences within the country and abroad.
- 7) The Tribunal ordered the conduct of mock drills and the training of frontline staff in fire control and disaster management.

By implementing these directions, the Tribunal aimed to address the issue of forest fires comprehensively, with a particular focus on mitigating the impact on climate change through effective prevention, control, and management measures, as well as the promotion of sustainable practices and community involvement.

**b) *Indian Council for Enviro-Legal Action (ICELA) v. MoEF*<sup>143</sup>**

The case law deals with the issue of the release of HFC-23, a potent greenhouse gas, as a by-product during the manufacturing of HCFC-22, a refrigerant. The Indian Council for Enviro-Legal Action (ICELA) filed an application before the National Green Tribunal (NGT), seeking directions for the companies producing HCFC-22 to stop venting HFC-23 and incinerate/destroy it under supervision.

The NGT addressed two main issues: its jurisdiction to entertain the application and the merits of the case concerning the regulation of HFC-23 emissions. Regarding jurisdiction, the respondents argued that the matter did not fall within the NGT's purview under Schedule I of the NGT Act, 2010. However, the Tribunal held that it has jurisdiction as HFC-23 is a greenhouse gas contributing to global warming and climate change, which falls within the ambit of the Environment Protection Act, 1986. The Tribunal emphasized that both the NGT Act and the EPA are social welfare legislations

---

<sup>143</sup> Indian Council for Enviro-Legal Action (ICELA) v. MoEF, NGT Application No. 170 of 2014.

aimed at protecting the environment and providing expeditious justice in environmental cases.

On the merits, the Tribunal observed that there is no domestic law or regulation in India to govern the management and disposal of HFC-23. The matter is primarily regulated internationally through the United Nations Framework Convention on Climate Change (UNFCCC), the Montreal Protocol, and the Kyoto Protocol. While acknowledging the global policy concerns, the Tribunal expressed its displeasure with the lack of a regulatory regime in India to address the issue.

The Tribunal noted that HFC-23, being a greenhouse gas, contributes to global warming and climate change, which have adverse effects on the environment, agriculture, and socio-economic systems. The Tribunal emphasized the legislative intent under the Environmental Protection Act and the NGT Act to improve the environment and prevent further pollution.

While the Tribunal refrained from prescribing specific regulatory measures, considering the policy implications, it directed the Ministry of Environment, Forest and Climate Change (MoEF & CC) and the Central Pollution Control Board (CPCB) to undertake a comprehensive study on the issue. The study should cover various aspects, including the mechanism for storage, handling, incineration, and emission standards of HFC-23, as well as its impact on global warming.

The Tribunal further directed the MoEF & CC, and CPCB to issue appropriate interim and long-term measures under Section 3 of the Environmental Protection Act to address the issue of HFC-23 emissions.

The case law highlights the importance of addressing climate change concerns, particularly regarding greenhouse gas emissions, and the need for regulatory frameworks to manage and mitigate their impact on the environment. It also underscores the role of environmental tribunals in ensuring the protection and improvement of the environment through expeditious adjudication and directions to the concerned authorities.

***c) In re Court on its own motion v. State of Himachal Pradesh*<sup>144</sup>**

The case of *In re Court on its own motion v. State of Himachal Pradesh* highlights the intersection of climate change and human rights in the Indian context. This litigation, initiated by the National green Tribunal on its own motion, focuses on environmental concerns in the Himalayan State of Himachal Pradesh, specifically around the Rohtang Pass caused due to increase of vehicles. The Court's intervention underscores the judiciary's proactive role in addressing critical issues related to environmental protection and human rights in the face of climate change challenges. One significant aspect of this case is the recognition of citizens' fundamental right to a wholesome, clean, and decent environment. The Court's ruling emphasizes the government's obligation to take measures to reduce black carbon emissions, which contribute to the accelerated melting of glaciers in the region.

Furthermore, the case underscores the importance of judicial activism in responding to environmental and climate-related challenges. By invoking its jurisdiction to safeguard the environment in ecologically sensitive areas like the Rohtang Pass, the Court exemplifies the judiciary's crucial role in promoting sustainable development practices that prioritize environmental conservation and human well-being. This proactive stance showcases how legal interventions can foster a more sustainable and rights-based approach to addressing climate change impacts. In the broader context of global climate litigation, the case of *In re Court on its own motion v. State of Himachal Pradesh* serves as a notable example of how national courts can participate in matters relating to environmental degradation aggravated by climate change. The Tribunal also comments on the obligation of the present generation to preserve the environment to provide for future generations. The Court refers to the principle of intergenerational equity and also points out the duty of the State to protect the environment and enforce environmental laws.

In conclusion, this case exemplifies the judiciary's pivotal role in addressing climate change impacts through proactive legal interventions. The Court's ruling advocates for sustainable development practices that prioritize environmental conservation and safeguard the well-being of present and future generations.

---

<sup>144</sup> *In re Court on its own motion v. State of Himachal Pradesh and others*, 2013 (CWPIIL No. 15 of 2010).

d) *Hanuman Laxman Aroskar v. Union of India*<sup>145</sup>

The case of *Hanuman Laxman Aroskar v. Union of India* (2019) revolves around a legal challenge to the environmental clearance granted for a greenfield airport project in the State of Goa, India. The petitioners in this case, citizen Hanuman Laxman Aroskar and the NGO Federation of Rainbow Warriors, contested the approval in the Supreme Court of India. The key contention was that crucial environmental impacts were not adequately considered during the assessment process, leading to the suspension of the airport's environmental clearance by the Court.

The Court's decision to suspend the clearance highlights the intersection of climate change concerns with human rights considerations. By recognizing the inadequacy of the environmental assessment that failed to account for significant environmental impacts, the Court underscored the importance of protecting the environment for present and future generations. This aligns with the recognition that environmental degradation resulting from development projects can have severe implications for human rights, including the right to a clean and healthy environment.

In light of this case, it is evident that courts play a crucial role in safeguarding both environmental interests and human rights. The decision to suspend the environmental clearance emphasizes the need for robust environmental impact assessments that consider the broader implications of development projects on the environment and human well-being. This case serves as a precedent for promoting sustainable development practices that prioritize environmental protection while upholding human rights obligations.

In conclusion, the *Hanuman Laxman Aroskar v. Union of India* case demonstrates the judiciary's pivotal role in addressing the complex interplay between climate change, environmental protection, and human rights. By scrutinizing environmental clearances and demanding comprehensive assessments, courts can contribute significantly to ensuring sustainable development that balances economic growth with environmental sustainability and human rights protection.

---

<sup>145</sup> Hanuman Laxman Aroskar v. Union of India, 2019 SCC 15 401.

e) *Narmada Bachao Andolan v. Union of India*<sup>146</sup>

The Narmada Bachao Andolan (NBA) case dealt with the impacts of large-scale development projects, particularly dams on the Narmada River, on local communities and the environment. The litigation raised critical questions about the displacement of people, loss of livelihoods, and environmental degradation caused by such projects. The Court's ruling demonstrated a nuanced approach to reconciling development imperatives with the protection of human rights and the environment. The *Narmada Bachao Andolan v. Union of India* case is a significant case in India that deals with the intersection of environmental rights, development projects, and human rights. While not directly about climate change, it has implications for how environmental issues affecting human rights are adjudicated.

In this case, the Narmada Bachao Andolan (NBA), a social movement comprising local residents, filed a petition challenging the construction of the Sardar Sarovar Dam on the Narmada River. The NBA argued that the dam's construction would displace hundreds of thousands of people and cause severe environmental damage, violating their fundamental rights.

The Supreme Court, in its judgment in 2000, acknowledged the potential impact of the dam project on the environment and the rights of those displaced. However, it took a balanced approach, weighing the developmental needs of the nation against the rights of those affected.

The Court recognized the right to a healthy environment as part of the fundamental right to life enshrined in Article 21 of the Indian Constitution. It stated that sustainable development must be the guiding principle, ensuring that the present generation's developmental needs are met without compromising the ability of future generations to meet their own needs.

The Court also emphasized the principle of intergenerational equity, which requires the present generation to ensure that the natural resources and the environment are preserved for future generations. It acknowledged that the displacement of thousands of people and the potential environmental degradation could violate their fundamental rights to life, livelihood, and a healthy environment.

---

<sup>146</sup> Narmada Bachao Andolan v. Union of India, 2002 SCC ONLINE SC 1401.



However, the Court ultimately held that the dam project could continue, subject to specific conditions aimed at mitigating the adverse effects on the environment and the displaced communities. These conditions included implementing adequate resettlement and rehabilitation measures, conducting environmental impact assessments, and establishing mechanisms for monitoring and addressing grievances.

The Court's decision in the *Narmada Bachao Andolan* case established important principles for balancing developmental projects with environmental concerns and human rights. It recognized the significance of environmental rights and the need to consider the long-term impact of development projects on the environment and local communities.

While the case did not directly address climate change, its recognition of the right to a healthy environment and the principle of sustainable development has implications for climate change litigation. It highlights the need to consider the potential impact of climate change on human rights, such as the right to life, health, and an adequate standard of living, when formulating policies and implementing projects.

The case also underscores the importance of adhering to principles of intergenerational equity and ensuring that present-day actions do not compromise the ability of future generations to enjoy their fundamental rights in the face of environmental challenges like climate change.

Overall, the *Narmada Bachao Andolan v. Union of India* case, while not directly addressing climate change, provides a framework for addressing environmental issues that affect human rights. It emphasizes the need for a balanced approach that considers both developmental needs and the protection of fundamental rights, including the right to a healthy environment.

**f) *Goa Foundation v. Union of India and Others*<sup>147</sup>**

The case of *Goa Foundation v. Union of India and Others* revolves around the contentious issue of mining in the State of Goa, India. The litigation brought by the Goa Foundation against Union of India addresses the environmental and human rights implications of mining activities in the region. The judgments delivered in this case

---

<sup>147</sup> *Goa Foundation v. Union of India and Others*, 2014 AIR SC 6014.

shed light on the intricate intersection between mining, environmental degradation, climate change, and human rights.

One of the critical aspects highlighted in the case is the need for robust environmental impact assessments in mining operations. The Court's directive for the production of reports from reputable institutions such as National Environmental Engineering Research Institute (NEERI) and the Indian School of Mines, Dhanbad, underscores the significance of assessing the environmental consequences of mining activities on a comprehensive scale. By suspending mining operations and transportation of mineral ores in Goa, the Court acknowledged the crucial link between mining practices, environmental degradation, and the protection of human rights.

The judgments in the Goa Foundation case emphasize the imperative of aligning development activities with sustainable practices that safeguard the environment and uphold human rights. The Court's intervention in suspending mining operations highlights the judiciary's role in ensuring that economic pursuits do not come at the expense of environmental degradation and violations of human rights. This aligns with the global discourse on promoting sustainable development that encompasses environmental protection and human well-being.

Furthermore, by addressing the environmental impact of mining activities in the context of climate change, the Goa Foundation case underscores the urgency of adopting environmentally responsible practices. The Court's scrutiny of mining operations reflects a commitment to mitigating the adverse effects of development projects on the environment and vulnerable communities. It sets a precedent for integrating climate change considerations into the legal framework governing resource extraction and emphasizes the imperative of ensuring sustainable practices to mitigate environmental harm and protect human rights.

In conclusion, this case exemplifies the judiciary's crucial role in addressing the complex challenges posed by mining activities concerning climate change, environmental protection, and human rights. By suspending mining operations and emphasizing the need for comprehensive environmental impact assessments, the Court's decisions underscore the importance of balancing economic development with environmental sustainability and human rights protection in the pursuit of a more equitable and sustainable future.

***g) Tamil Nadu Newsprint and Papers Ltd. v. Tamil Nadu Electricity Regulatory Commission***<sup>148</sup>

The *Tamil Nadu Newsprint and Papers Ltd. v. Tamil Nadu Electricity Regulatory Commission* case is a significant milestone in India's efforts to address climate change and transition towards a more sustainable energy future. The case highlights the critical role of regulatory authorities in promoting renewable energy sources and reducing the country's dependence on fossil fuels.

At the core of the case is the recognition of the urgent need to curtail greenhouse gas emissions and mitigate the adverse effects of global warming. The Appellate Tribunal acknowledged the alarming signs of environmental degradation, such as receding glaciers, rising sea levels, and the expansion of oceans due to global warming. These observations underscore the gravity of the climate change crisis and the imperative for immediate action.

Importantly, the Tribunal emphasized the constitutional and statutory obligations of the State and its authorities, including Electricity Regulatory Commissions, to protect and improve the environment for present and future generations. This responsibility is enshrined in Articles 48A and 51A(g) of the Indian Constitution, which mandate the State to safeguard the environment and impose a duty on citizens to protect and improve the natural environment.

The Tribunal also highlighted the preamble and Section 61(h) of the Electricity Act, 2003, which recognize the significance of promoting efficient and environmentally benign policies, as well as co-generation and generation of electricity from renewable sources of energy. This legal framework provides a strong foundation for Regulatory Commissions to take proactive measures in facilitating the growth of renewable energy.

Notably, the Tribunal stressed the duty of Regulatory Commissions to frame regulations that actively encourage the production of power through renewable sources, such as solar, wind, and biomass. The Tribunal emphasized that these regulations should be crafted in a manner that enables the building of substantial capacity through clean energy sources, aligning with the spirit of the Constitution, Electricity Act, National Electricity Policy, and MNES guidelines.

---

<sup>148</sup> *Tamil Nadu Newsprint and Papers Ltd. v. Tamil Nadu Electricity Regulatory Commission*, 2007 ELR(APTEL)157.

Furthermore, the Tribunal drew inspiration from the exemplary efforts of countries like Germany, which has successfully promoted solar energy through supportive legislation. This serves as a model for India to emulate, underscoring the need for comprehensive regulatory frameworks that incentivize and facilitate the growth of renewable energy industries.

In conclusion, this case is a landmark decision that reinforces the critical role of Regulatory Commissions in driving India's transition towards a sustainable energy future. By framing regulations that actively promote renewable energy sources, Regulatory Commissions can play a pivotal role in addressing climate change concerns, reducing greenhouse gas emissions, and fostering a cleaner and more environmentally responsible energy sector.

### **Conclusion**

In the absence of a specific climate change legislation, climate change litigation becomes very difficult. The existing laws do not explicitly provide anything on climate or climate change in their provisions. It is up to the Courts to interpret and integrate them into these laws. While climate issues can be brought before the National Green Tribunal, it awaits the discretion and interpretation of existing laws for remedy. Public Interest Litigation seems to be the best alternative in such a circumstance.

While there are no specific landmark judgments in India that comprehensively address the integration of human rights principles into climate actions, these cases have laid the foundation by recognizing the right to a healthy environment, the need for government action on climate change, and the potential impact on the right to life and dignity. *Ridhima Pandey v. Union of India*,<sup>149</sup> was one such case that directly pointed out climate change and brought the issue to the limelight. Even then, the judgment by the NGT was not in favour of the petitioner. However, more explicit and comprehensive judicial guidance on this issue is still awaited. The Courts do uphold the accountability of the State and other contributing actors. Even then, a wide range of cases related to climate change mitigation can be found compared to cases related to climate change adaptation.

---

<sup>149</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

## **Chapter 6:**

### **Findings, Suggestions and Conclusion**

#### **Introduction**

While looking into the history of human rights and environmental law in the international legal system, it can be noticed that by the time environmental law came into being, human rights already had a concrete structure. Climate change came even later with lesser structured framework. Thus, the integration of human rights into climate change action can help in a structured framework. Human rights analytics for climate change are broadly on two levels. Firstly, the human rights framework provides principles with injustice and inequalities at its centre, which are important in climate action. Secondly, it provides moral authority to pressure decision-makers to fulfil moral obligations on their part.<sup>150</sup>

#### **Findings and Suggestions**

##### **a) Parties to the Paris Agreement**

Here are some findings based on the synthesis report by the secretariat, the 2023 NDCs<sup>151</sup>:

Based on the NDC synthesis report, here are some key points about the Nationally Determined Contributions (NDCs):

- 1) The report synthesizes information from 168 latest available NDCs, representing 195 Parties to the Paris Agreement, covering 94.9% of global emissions in 2019.
- 2) 94% of the parties provided quantified mitigation targets and 80% communicated economy-wide targets. All NDCs cover CO<sub>2</sub> emissions, with high coverage of other greenhouse gases as well.
- 3) 93% of the parties communicated an NDC implementation period until 2030. 54% identified January 1, 2021, as their starting date for implementation.
- 4) Global GHG emissions, taking into account the NDC implementation are estimated to be 51.6 (48.3-54.8) Gt CO<sub>2</sub> eq. in 2030. This is 50.5% higher than 1990 levels,

---

<sup>150</sup> Simon Nicholson & Daniel Chong, *Jumping on the Human Rights Bandwagon: How Rights-based Linkages Can Refocus Climate Politics*, 11 GLOBAL ENVIRONMENTAL POLITICS. 121, 126 (2011).

<sup>151</sup> Nationally determined contributions under the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma2023\\_12.pdf](https://unfccc.int/sites/default/files/resource/cma2023_12.pdf) (last visited June 21, 2024).

but 2.0% lower than 2019 levels. This indicates possibility of global emissions peaking before 2030.

- 5) NDCs fall short of emission reductions needed for 1.5°C and 2°C pathways. The gap remains 19.5 Gt CO<sub>2</sub> eq. to 1.5°C scenario and 11.6 Gt CO<sub>2</sub> eq. to 2°C scenario in 2030, even with full NDC implementation 48% of the parties provided information on long-term mitigation visions or strategies up to 2050. For these Parties, emissions could be 64% lower in 2050 compared to 2019.
- 6) Key mitigation measures were included by parties. 90% of the parties included renewable energy generation, and 73% included energy efficiency in buildings.
- 7) 81% of the parties included an adaptation component. The focus was on water, food security, ecosystems, economic sectors, and health.
- 8) 95% of the parties provided some information on finance, technology, capacity-building and 46% gave quantitative estimates of financial support needs.
- 9) Many parties strengthened targets and added more details compared to previous NDCs.

The report indicates progress in NDC submissions and increased ambition by many countries, but highlights that current pledges are not yet aligned with limiting warming to 1.5°C or well below 2°C.

**Potential Insufficiency:**<sup>152</sup>

- Even with full NDC implementation, there is a substantial gap to 1.5°C and 2°C pathways (19.5 and 11.6 Gt CO<sub>2</sub> eq. respectively by 2030).
- Current NDCs put us on track for 2.1-2.8°C of warming, well above the Paris Agreement goals.
- The NDCs would use up 87% of the remaining carbon budget for 1.5°C by 2030, leaving little room for post-2030 emissions.
- Only 48% of Parties provided long-term strategies to 2050, and even these fall short of needed reductions for 1.5°C pathways.
- The report indicates that emissions reductions until 2030 will need to be further enhanced to align with 1.5°C pathways.
- While renewable energy is widely addressed, other key sectors like industry and transport may be insufficiently targeted.

---

<sup>152</sup> Ibid.

- While 46% of Parties provided quantitative estimates of financial needs, there's no indication that these needs will be met, potentially limiting implementation.
- While 81% included adaptation components, the specificity and comprehensiveness of these plans may be insufficient given the scale of climate impacts expected.
- Only 9% indicated measures for phasing down unabated coal power, and just 4% for phasing out inefficient fossil fuel subsidies, despite their importance for emissions reduction.
- Some NDCs may be counting on unproven technologies for future emissions reductions, which could prove insufficient if these technologies don't materialize as expected.

#### **Potential Inefficiency:**<sup>153</sup>

- There is a significant emissions gap between the projected 2030 emissions levels from fully implementing the latest NDCs and the emissions levels needed by 2030 for 1.5°C or 2°C pathways.
- The estimated gap in 2030 is 20.3 Gt CO<sub>2</sub> eq. for 1.5°C scenarios and 12.5 Gt CO<sub>2</sub> eq. for 2°C scenarios, even assuming full implementation of all conditional NDC elements.
- Urgent need for a significant increase in NDC ambition by 2030 or over-achievement to align with a cost-effective 1.5°C or 2°C pathway.

While considering internationally, many countries have taken crucial steps towards climate justice, while many are still lagging. This disparity in policymaking and implementation will affect all nations adversely. As seen presently, the least contributed nations are facing the worst effects of climate change. Even with numerous international instruments, sufficient goals have not been met due to this inequality. The adoption of HRBA can help in achieving a more equitable and non-discriminatory result without compromising on the development of developing countries and LDCs. In summary, while the NDCs show progress in some areas of implementation efficiency, their overall mitigation contributions are still insufficient to meet the Paris Agreement's long-term temperature goals based on this synthesis report. Significantly increased ambition and implementation efforts are still needed.

---

<sup>153</sup> Ibid.

**b) India**

According to the Climate Action Tracker (CAT), India's Conditional NDC Target is "Highly Insufficient," and current policies and actions are rated as "Insufficient" when compared to its fair share contribution towards limiting global temperature rise to 1.5°C. CAT's evaluation of India's climate policies:<sup>154</sup>

- 1) Emissions Projections: CAT estimates that under current policies, India's emissions will be around 4.0-4.3 GtCO<sub>2</sub> eq. in 2030. This level is inconsistent with limiting warming to 1.5°C.
- 2) Energy Policies: India has not yet committed to phasing out coal power or fossil gas. Its latest electricity plan includes adding over 25 GW of new coal capacity by 2030. CAT cautions against India's expanding LNG infrastructure as fossil gas needs to be phased out from power generation before 2040 to align with 1.5°C.
- 3) Need for Additional Policies: While India has implemented some climate policies, CAT states that it will need to implement additional policies with domestic resources as well as international support to make a fair contribution consistent with 1.5°C.
- 4) G20 Summit: CAT is critical of India's presidency of the 2023 G20 summit for not pushing for a global fossil fuel phase-out commitment, missing an opportunity for climate leadership.
- 5) Carbon Markets: India is taking steps to establish a domestic carbon market, but CAT does not explicitly evaluate this policy.

Therefore, CAT finds India's current policies and actions to be insufficient for limiting warming to 1.5°C, highlighting the need for India to enhance its mitigation ambition, particularly in the energy sector, by phasing out coal and fossil gas. International support is also considered necessary for India to implement all required policies for 1.5°C compatibility.

---

<sup>154</sup> Climate Action Tracker, <https://climateactiontracker.org/countries/india/policies-action/> (last visited June 10, 2024).



The difficulties faced by India in achieving better climate policies by integrating HRBA are numerous. The main challenges in India are:

**1) Lack of Comprehensive Climate Change Legislation.**

There is a need for coordination between environmental law and climate policy to address climate vulnerabilities and injustice. A possible example to point out is India's Forest Rights Act (FRA) and the Green India Mission. While the Green India Mission aims to promote afforestation for carbon sequestration, these efforts can marginalize forest-dependent communities by displacing them from their traditional lands. Additionally, such programs often violate the FRA's requirement to obtain consent from the concerned gram sabha.<sup>155</sup> Similar situations happen in different parts of the world, like in Kenya. The Kenyan Government evicted forest dwellers in the name of afforestation as a part of their climate action framework.<sup>156</sup> This demonstrates that climate action must align with legal frameworks designed to protect the rights of vulnerable and impoverished communities.

There is a lack of comprehensive climate legislation that explicitly incorporates human rights considerations and obligations related to loss and damage. The absence of a specific climate change law is a major barrier to initiating climate change litigation in India. India has enacted numerous environmental laws, including the EPA and NGT Act, which are detailed in Chapter IV. However, climate change is an issue that has yet to be addressed by any such legislation in depth. These legislations have the potential to integrate climate change as an issue under their purview but are not modified accordingly. Most legislation touches upon this subject only at its periphery. Most environmental laws give away almost all the powers to the Central Government. The concentration of power with the executive for policies as well as legislation creates problems. The NAPCC is completely within the executive's power leaving it with no parliamentary or public scrutiny. The superior SAPCCs are a great example of the efficiency of different States in climate action. They provide more inclusive and region-specific solutions that are more effective.<sup>157</sup> The delegation of proper policy-making

---

<sup>155</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 118 (Prakash Kashwan ed., 2022).

<sup>156</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 176 (Routledge, 2016).

<sup>157</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 118 (Prakash Kashwan ed., 2022).

and legislation to the State Governments can reduce the concentration of power at the center as well as provide better results.<sup>158</sup>

In the absence of such integration, specific climate legislation like the Republic of Uganda's National Climate Change Act, 2021 is the way forward. Climate litigation is difficult in the absence of specific climate legislation as existing laws do not provide an alternative. Currently, the possible remedy for climate issues is through Public Interest Litigation. Thus, a structured legislation integrating human rights principles in its provisions can provide a better position for climate litigation in India.

## **2) The Barrier of Development to Climate Action.**

Climate justice creates a potential barrier related to balancing the development needs of the country with climate change considerations affecting human rights. India as a developing country cannot forego its development plans for climate action. On the other hand, India cannot give up climate action for the sake of development as the global emission contributor of 6.76%.<sup>159</sup> India has been utilizing its position as a developing nation to avoid its responsibilities towards climate change. The common but differentiated responsibilities principle becomes a tool for India to evade responsibility. It provides developing countries like India funding as well as technology transfer from developed countries.<sup>160</sup>

It is common for countries to adopt the co-benefit approach to minimize the conflict between development and climate action. This approach helps in combining climate mitigation along with other goals, in this instance, development. This is commonly used by developing countries including India in their climate action plans. It helps in achieving climate mitigation without compromising on development.<sup>161</sup> While climate mitigation can be the main goal development and economic growth be the secondary goal. NAPCCs as well as SAPCCs follow a co-benefit approach in India. However, this

---

<sup>158</sup> Chandra Bhushan and Tarun Gopalakrishnan, *Environmental Laws and Climate Action: A case for enacting a framework climate legislation in India*, International Forum for Environment, Sustainability and Technology (2021), available at <https://shaktifoundation.in/wp-content/uploads/2021/12/Environmental-Laws-and-Climate-Action.pdf> (last visited June 14, 2024).

<sup>159</sup> CLIMATE CHANGE LAWS OF THE WORLD, <https://climate-laws.org/geographies/india> (last visited June 16, 2024).

<sup>160</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 118 (Prakash Kashwan ed., 2022).

<sup>161</sup> Theresa Stahlke, *Climate policy and the concept of co-benefits in India*, 25 Journal of Social and Economic Development 86, 89-90 (2023).

has been criticized as an excuse to continue business.<sup>162</sup> The NAPCC is a climate change policy brought by India as an initiative towards climate justice. However, the State gives more importance to development in its initiatives.

A human rights-based approach to climate change can provide a balanced result. Indivisibility is an important human rights principle that advocates that human rights cannot be divided. It rejects the notion that environmental protection and economic development are mutually exclusive, instead advocating for policies that address both needs simultaneously. Unlike the broader concept of sustainable development, human rights specifically target those whose basic needs are most at risk.<sup>163</sup>

### **3) The Role of the Judiciary in Climate Change Litigation.**

International law does not identify a clean environment as a fundamental right. However, various countries including India have recognized the same as a fundamental right. This helps in raising action against polluters. Actions have been filed against States for climate issues in various countries. The Inuit Petition was a result of such an action. Even though it did not yield favorably for the petitioners it kick-started the integration of human rights in climate actions. Even if the judgments are against the petitions filed against climate issues, they create awareness among the public and pressure the decision-makers to bring about positive measures.<sup>164</sup>

In *Gbemre v. Shell Petroleum*,<sup>165</sup> the court held that the respondents' action of gas flaring in the applicant's community violated their fundamental rights to a clean and healthy environment. It ruled that Shell's failure to conduct an EIA contravenes the EIA Act and infringes upon these rights. The court ordered the respondents to take action to cease gas flaring operations. However, Shell refused to comply with this judgment resulting in various NGOs and activists pressuring them into compliance due to worldwide reputational damage.<sup>166</sup> This shows that as long as the issue is brought to the

---

<sup>162</sup> Ibid.

<sup>163</sup> Simon Nicholson & Daniel Chong, *Jumping on the Human Rights Bandwagon: How Rights-based Linkages Can Refocus Climate Politics*, 11 GLOBAL ENVIRONMENTAL POLITICS 121, 126 (2011).

<sup>164</sup> Ibid.

<sup>165</sup> *Gbemre v. Shell Petroleum Development Company of Nigeria Ltd. and Others*, FHC/B/CS/53/05, available at [https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2005/20051130\\_FHCBCS5305\\_judgment.pdf](https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2005/20051130_FHCBCS5305_judgment.pdf) (last visited June 15, 2024).

<sup>166</sup> Simon Nicholson & Daniel Chong, *Jumping on the Human Rights Bandwagon: How Rights-based Linkages Can Refocus Climate Politics*, 11 GLOBAL ENVIRONMENTAL POLITICS 121, 130 (2011).

forefront irrespective of the judiciary's decision it can create an impact. The initiative to bring the issue before the court itself helps in creating public opinion.

There has been limited success in establishing a direct link between climate change and human rights by the judiciary in India. In the case of *Ridhima Pandey v. Union of India*,<sup>167</sup> the tribunal dismissed the petition without establishing this link. The overburdened judiciary is leading to delays in adjudicating environmental and climate cases promptly, as highlighted by the delay in the *Ridhima Pandey* case. There is a need for a better understanding and capacity within the judiciary to comprehend the connection between human rights and climate change, especially on technical aspects, though the judiciary is theoretically well-equipped.

This case fell short in its judgment by not clearly identifying the deficiencies in India's national climate policy. Although climate change has been acknowledged superficially, the government's policies lack a scientific or economic foundation to determine India's appropriate contribution to mid-century decarbonization, as required by the Paris Agreement. Furthermore, while the Court considered climate impacts within the scope of Environmental Impact Assessment (EIA), actual EIA practices suggest otherwise. A more refined legal approach could potentially advance climate priorities. However, the Indian Courts' capacity to enhance climate ambition comes with limitations. The systemic issues within the Indian legal system also affect their environmental and climate record. Despite being known for judicial activism, often seen as pro-environment, Indian Courts frequently refrain from aggressively reviewing the executive's decisions on economic policy and infrastructure. Additionally, judicial outcomes in India are highly unpredictable due to various legal and non-legal influencing factors.<sup>168</sup> Nonetheless, well-designed strategic climate litigation has the potential to progress the climate change agenda in the country.

#### **4) The Challenges of Policymaking in an Unequal Society.**

India is a vast and diverse nation that has been historically unequal. The inequalities may be due to economic status, gender, or caste. Various SAPCCs have been more successful in including these marginalized, vulnerable groups of people in their plans.

---

<sup>167</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

<sup>168</sup> Chandra Bhushan and Tarun Gopalakrishnan, *Environmental Laws and Climate Action: A case for enacting a framework climate legislation in India*, International Forum for Environment, Sustainability and Technology (2021), available at <https://shaktifoundation.in/wp-content/uploads/2021/12/Environmental-Laws-and-Climate-Action.pdf> (last visited June 14, 2024).

However, the same cannot be claimed by the NAPCC as they only provide a superficial inclusion. The country cannot dream of concrete climate action without addressing its inequalities. The most important steps towards the integration of HRBA are equality and non-discrimination. The policy-makers must always consider these factors into consideration while creating climate change laws and policies.

#### **a) Economic Inequality**

There is a positive relationship between economic inequality and carbon emissions in India. This means that as economic inequality increases, carbon emissions also tend to increase. Specifically, from 2000 to 2008, a 1% increase in economic inequality was associated with approximately a 0.9% increase in State-level carbon emissions.<sup>169</sup> Among India's adult population of 92 million, the 10,000 most affluent individuals have an average wealth of 22.6 billion rupees. This is 16,763 times greater than the national average. Meanwhile, the top 1% of the population holds an average wealth of 54 million rupees. This data indicates a significant concentration of wealth among India's richest citizens.<sup>170</sup> This indicates the economic gap within the country and the problem in climate action. As the negative effects of climate change are projected to disproportionately impact the poor, rising inequality and emissions may strengthen each other, further undermining the well-being of lower economic strata. This makes achieving climate justice more difficult. However, on a positive aspect, this relationship can also bring about better climate mitigation by introducing inclusive economic development policies that reduce inequality and help mitigate carbon emissions.<sup>171</sup>

#### **b) Gender Inequality**

Women face heightened vulnerability to climate change due to long-standing disadvantages, including constrained access to resources, limited rights, and minimal influence in decision-making processes. The specific ways in which this vulnerability

---

<sup>169</sup> Haimanti Bhattacharya, *Climate Justice Implications of the Relationship between Economic Inequality and Carbon Emissions in India*, in CLIMATE JUSTICE IN INDIA 98, 108-109 (Prakash Kashwan ed., 2022).

<sup>170</sup> *India's richest 1% has highest concentration of wealth in decades*, THE ECONOMIC TIMES [https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (last visited June 16, 2024).

<sup>171</sup> Haimanti Bhattacharya, *Climate Justice Implications of the Relationship between Economic Inequality and Carbon Emissions in India*, in CLIMATE JUSTICE IN INDIA 98, 99-100 (Prakash Kashwan ed., 2022).

manifests can differ greatly across contexts, making broad generalizations inadvisable. However, it is probable that climate change will intensify and reinforce existing gender-based disparities and disadvantages.<sup>172</sup>

The NAPCC and SAPCCs recognize that women are particularly vulnerable to the impacts of climate change. The plans acknowledge that women face increased scarcity of water, reduced yields from forests, and heightened health risks. They note that climate change adds to the deprivations women already encounter. Despite recognizing women's vulnerability, the action plans are not sufficiently gender-responsive.<sup>173</sup> The plans identify women as vulnerable but do not provide comprehensive strategies to address gender-specific challenges. They lack an intersectional understanding of how women experience climate change impacts differently based on their class, caste, and other social factors. The action plans were largely created without significant participation from women or women's groups. The plans note that women face a heavier burden in terms of climate adaptation due to the feminization of agriculture. As men migrate due to climate stresses, women are often left behind to manage agricultural work, making them more vulnerable to climate impacts.<sup>174</sup>

However, positive integrations have taken place in a few States like Kerala. Kerala's gender-inclusive climate action plan is a positive example in this regard. Kerala has integrated women's self-help groups like "Kudumbashree" and poverty eradication missions with climate adaptation efforts. The State supports women farmers through sustainable agriculture programs, ensures market access, and promotes biodiversity conservation.<sup>175</sup>

In conclusion, while India's climate action plans recognize gender as a factor in climate vulnerability, they fall short in providing comprehensive, intersectional, and participatory approaches to address gender-specific climate challenges. The plans acknowledge women's vulnerability but lack robust strategies for women's empowerment and gender-responsive climate action. There is a need for more inclusive

---

<sup>172</sup> *Fighting Climate Change: Human Solidarity in a Divided World*, Human Development Report 2007/2008, available at <https://hdr.undp.org/system/files/documents/2008-english.2008-english> (last visited June 16, 2014).

<sup>173</sup> Stellina Jolly and K.S. Roshan Menon, *Climate Change, Disasters and Gender Resilience*, 61 JOURNAL OF THE INDIAN LAW INSTITUTE 420, (2019).

<sup>174</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 131-133 (Prakash Kashwan ed., 2022).

<sup>175</sup> *Ibid.*

planning processes and targeted interventions that consider the diverse experiences of women across different social and economic contexts.

### c) Caste Inequalities

Caste and climate change intersect in India to exacerbate economic inequalities, particularly for the Dalit community. Caste still plays a significant role in Indian society, especially in the economy. Historical injustices due to the caste system have led to inequalities in all spheres of life for lower castes, particularly Dalits. The intersection of caste, gender, and socioeconomic status compounds the vulnerability of Dalit women to climate change impacts and exploitation.<sup>176</sup>

Climate change impacts like droughts and floods disproportionately affect the livelihood of marginalized communities, including Dalits, who are landless and depend on wage labor. Dalits have the lowest ownership of land, livestock, and other assets compared to dominant castes, limiting their ability to adapt to climate change impacts.<sup>177</sup> Discrimination against Dalits persists in access to financial resources, government schemes, and relief aid during disasters, further constraining their economic resilience. In essence, the caste system in India has historically marginalized Dalits, and climate change is now exacerbating their economic vulnerabilities, leading to a vicious cycle of poverty and deprivation.<sup>178</sup> Addressing this complex intersection of caste, climate change, and economic inequality requires comprehensive policy interventions and systemic changes.

The State Action Plans on Climate Change (SAPCCs) do acknowledge that Scheduled Caste (SC) and Scheduled Tribe (ST) communities are highly vulnerable to the impacts of climate change. This vulnerability is primarily linked to their dependence on climate-sensitive sectors such as agriculture and forestry for their livelihoods. Despite recognizing SC/ST vulnerability, the National Action Plan on Climate Change (NAPCC) and SAPCCs show a lack of serious attention to questions of caste and caste-based exclusion. The plans do not adequately address the discrimination and social

---

<sup>176</sup> Dadasaheb Tandale, *Caste, Economic Inequality, and Climate Justice in India*, in HUMAN RIGHTS AND ECONOMIC INEQUALITIES 217, 226-235 (Gillian MacNaughton, Diane Frey and Catherine Porter ed., 2019).

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

exclusion faced by these communities, which exacerbates their vulnerability to climate change.<sup>179</sup>

The analysis reinforces the argument that environmentalism in India suffers from “Dalit blindness.” Environmental movements and the discourse on environmental justice do not sufficiently accommodate questions of untouchability and caste-based exclusion from access to resources. This blindness is reflected in the climate action plans.<sup>180</sup>

Some SAPCCs, like Chhattisgarh’s, propose specific schemes, like agroforestry, to support the livelihood strategies of SC communities. However, these interventions do not tackle the root causes of their vulnerability, such as social exclusion and lack of land rights.<sup>181</sup> While the SAPCCs incorporate caste as one of the relevant socio-economic parameters for assessing vulnerability, they do not provide strategies to address caste-based exclusion that leads to the denial of basic resources for Dalit communities.

The analysis points out that the burdens and costs of climate change are unevenly distributed, with lower-caste communities often bearing a disproportionate share. However, the climate action plans do not fully capture or address this inequity.

## **Conclusion**

Climate change poses a grave threat to the full enjoyment of human rights, including the rights to life, health, food, water, and housing. The impacts of climate change, such as rising temperatures, sea-level rise, extreme weather events, and biodiversity loss, disproportionately affect vulnerable and marginalized communities, exacerbating existing inequalities. Recognizing the inextricable link between climate change and human rights, there has been a growing emphasis on adopting a human rights-based approach to climate action.<sup>182</sup>

Integrating a human rights-based approach into climate change policies and actions at the international level has gained significant attention in recent years. Climate change has far-reaching implications for human rights, such as the rights to life, health, food,

---

<sup>179</sup> Arpitha Kodiveri and Rishiraj Sen, *Climate Action Plans and Justice in India*, in CLIMATE JUSTICE IN INDIA 115, 130-131 (Prakash Kashwan ed., 2022).

<sup>180</sup> Ibid.

<sup>181</sup> Ibid.

<sup>182</sup> Prakash Kashwan, *Introduction*, in CLIMATE JUSTICE IN INDIA 2, 4-7 (Prakash Kashwan ed., 2022).



water, and adequate housing. The adverse effects of climate change disproportionately affect vulnerable populations, including indigenous communities, women, children, and people living in poverty.<sup>183</sup>

The Paris Agreement, adopted in 2015 under the United Nations Framework Convention on Climate Change (UNFCCC), acknowledges the importance of respecting, promoting, and considering human rights in climate change actions. Additionally, various United Nations bodies, including the Human Rights Council and the Office of the High Commissioner for Human Rights (OHCHR), have emphasized the need for an HRBA for climate change.

The HRBA to climate change is based on core human rights principles, such as non-discrimination, participation, equity, accountability, and indivisibility. These principles should guide climate change policies, programs, and actions at all levels, from international negotiations to national implementation and local adaptation measures. Integrating HRBA in climate change involves respecting and protecting both procedural and substantive rights in the context of climate change mitigation and adaptation efforts.<sup>184</sup>

HRBA emphasizes the need to identify and prioritize the rights and needs of vulnerable and marginalized groups, who often face disproportionate impacts from climate change and have limited resources and capacities to adapt. This approach aims to ensure their meaningful participation and the consideration of

While progress has been made in recognizing the importance of HRBA in climate change at the international level, significant challenges remain in translating these principles into concrete policies and actions. Continued efforts are needed to mainstream human rights considerations in climate change governance, decision-making processes, and implementation mechanisms at all levels.

India has taken some positive steps towards integrating a human rights-based approach to climate change actions, but there is still scope for further progress. India does not have a single comprehensive climate change legislation, but various environmental

---

<sup>183</sup> Climate Change and Human Rights: A Rough Guide, 2008, International Council on Human Rights Policy, [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136\\_report.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136_report.pdf) (last visited June 5, 2024).

<sup>184</sup> SUMUDU ATAPATTU, HUMAN RIGHTS APPROACHES TO CLIMATE CHANGE: CHALLENGES AND OPPORTUNITIES 75-85 (Routledge, 2016).

laws and policies collectively form the legal and policy framework to address climate change domestically. The National Action Plan on Climate Change (NAPCC) and its eight missions aim to promote sustainable development and address climate change mitigation and adaptation.

The National Environment Policy, 2006 recognizes the need to balance environmental concerns with developmental needs and emphasizes the principles of sustainable development and intergenerational equity. The policy acknowledges the importance of protecting the fundamental rights to a clean environment, health, and life, as enshrined in the Indian Constitution.<sup>185</sup> The principle of intergenerational equity, which requires preserving the environment for future generations, is recognized in some policies and judicial decisions. The National Green Tribunal Act, 2010 provides a legal framework for adjudicating cases related to environmental protection, including those affected by climate change.

The Coastal Regulation Zone (CRZ) Notification, 2011 integrates climate change considerations into coastal regulation, mandating environmental impact assessments and climate change adaptation measures. While it highlights the need for public participation, inclusivity, and protecting vulnerable communities, their implementation has been limited in fully incorporating these human rights principles.

The Indian judiciary has played a proactive role in addressing environmental and climate-related challenges through various judgments, recognizing the fundamental right to a wholesome environment and the principle of intergenerational equity. Cases like *Ridhima Pandey v. Union of India*<sup>186</sup> and *Hanuman Laxman Aroskar v. Union of India*<sup>187</sup> have highlighted the importance of integrating climate change considerations into environmental impact assessments and upholding the rights of present and future generations.

The Indian perspective on a human rights approach to climate change underscores the significance of human rights and the rights of local communities affected by environmental issues in the context of climate change in India. The connection between

---

<sup>185</sup> INDIA CONSTITUTION, art. 21.

<sup>186</sup> *Ridhima Pandey v. Union of India*, 2017 SCC ONLINE NGT 187.

<sup>187</sup> *Hanuman Laxman Aroskar v. Union of India*, 2019 SCC 15 401.

climate change and human rights is crucial to shaping India's response to climate change while considering the limitations inherent in such approaches.

Moreover, examining climate change in India from a human rights viewpoint involves analyzing its socio-economic aspects and advocating for justice and equity in climate negotiations. This perspective emphasizes the importance of considering justice and equity concerns in addressing climate challenges effectively. Integrating human rights principles into climate change actions can strengthen the ethical foundation of climate policies, ensure the protection of vulnerable populations, and foster sustainable and equitable responses to the challenges posed by climate change.<sup>188</sup>

Furthermore, discussions on climate change in India stress the need for a broader debate on the interplay between climate change and development and highlight the evolving nature of climate change from merely an environmental issue to a critical developmental challenge with significant economic ramifications, especially for vulnerable populations.<sup>189</sup> Moreover, utilizing human rights frameworks in climate change actions can contribute to enhancing accountability, transparency, and participation in decision-making processes related to climate policies and programs.<sup>190</sup>

This research suggests that the Indian approach to climate change intertwines human rights, justice, equity, and development considerations in a very limited way. It reflects an unstructured climate justice framework in India.

---

<sup>188</sup> Richa Chauhan, *Climate Change: An Issue of Equity, Justice and Human Rights*, 2 *ILI Law Review* 13, 24 (2019).

<sup>189</sup> Eeshan Chaturvedi, *Climate Change Litigation: Indian Perspective*, 22 *German Law Journal* 1459, 1469-1470 (2021).

<sup>190</sup> Understanding Human Rights and Climate Change, 2015, COP21, available at <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>, (last visited 14 June, 2024).

## **BIBLIOGRAPHY**

### **BOOKS**

- César Rodríguez-Garavito, “Litigating the Climate Emergency”, (Cambridge University Press, 2022).
- G. MacNaughton et al., “Caste, Economic Inequality, and Climate Justice in India”, (Cambridge University Press, 2021).
- Lavanya Rajamani et al., “Human Rights and Climate Change: A Review of the International Legal Dimensions”, (The World Bank 2011).
- Linda Hajjar Leib, “Human Rights and the Environment”, (Brill, 2010).
- Prakash Kashwan, “Climate Justice in India”, (Cambridge University Press, 2022).
- Sumudu Atapattu, “Human Rights Approaches to Climate Change: Challenges and Opportunities”, (Routledge, 2016).

### **ARTICLES**

- Benoit Mayer, *Climate Change Mitigation As An Obligation Under Human Rights Treaties?*, 5 AM. J. INT’L L. 409, (2021).
- Eeshan Chaturvedi, *Climate Change Litigation: Indian Perspective*, 22 German Law Journal 1459, (2021).
- Gitanjali N. Gill & Gopichandran Ramachandran, *Sustainability Transformations, Environmental Rule Of Law And The Indian Judiciary: Connecting The Dots Through Climate Change Litigation*, 23 ENV’T L. REV. 228, (2021).
- Giulia Gasparri Et Al., *Integrating Youth Perspectives: Adopting A Human Rights and Public Health Approach To Climate Action*, 9 INT’L J. ENV’T RSCH. & PUB. HEALTH 4840, (2022).
- Lavanya Rajamani Et Al., *National ‘Fair Shares’ in Reducing Greenhouse Gas Emissions Within the Principled Framework Of International Environmental Law*, CLIMATE POLICY 983, (2021).

- Margaretha Wewerinke-Singh, *The Rising Tide of Rights: Addressing Climate Loss and Damage Through Rights-Based Litigation*, 2 TRANSNAT'L ENV'T L. 537 (2023).
- Richa Chauhan, *Climate Change: An Issue of Equity, Justice and Human Rights*, 2 ILI Law Review 3, (2019).
- Simon Nicholson & Daniel Chong, *Jumping on the Human Rights Bandwagon: How Rights-Based Linkages Can Refocus Climate Politics*, GLOB. ENV'T POLS. 2, (2011).
- Stellina Jolly and K.S. Roshan Menon, *Climate Change, Disasters and Gender Resilience*, 61 JOURNAL OF THE INDIAN LAW INSTITUTE 420, 2019.
- Theresa Stahlke, *Climate Policy and The Concept of Co-Benefits in India*, 25 Journal of Social and Economic Development 86, (2023).

#### **STATUTES, REGULATIONS AND POLICIES**

- Coastal Regulation Zone Notification, 2011
- Constitution of India, 1949
- National Climate Change Act, 2021 (Uganda)
- The Energy Conservation (Amendment) Bill 2022
- The Energy Conservation Act, 2001
- The Environmental Protection Act of 1986
- The Forest Rights Act, 2006
- The National Action Plan on Climate Change (NAPCC), 2008
- The National Environment Policy, 2006
- The National Green Tribunal Act, 2010
- The Protection of Human Rights Act, 1993

#### **INTERNATIONAL DECLARATIONS AND CONVENTIONS**

- International Covenant on Civil and Political Rights (1976).
- International Covenant on Economic, Social, and Cultural Rights (1976).
- Male Declaration (2007).
- Paris Agreement (2015).

- Rio Declaration on Environment and Development (1992).
- Stockholm Declaration of United Nations Conference on The Human Environment (1972).
- The Kyoto Protocol
- The United Nations Framework Convention on Climate Change (1994).
- United Nations Framework Convention on Climate Change (1992).
- Universal Declaration on Human Rights (1948).

### **REPORTS**

- Climate Change and Human Rights: A Rough Guide, 2008, International Council on Human Rights Policy, [https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136\\_report.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/Submissions/136_report.pdf) (last visited June 5, 2024).
- *Fighting Climate Change: Human Solidarity in a Divided World*, Human Development Report 2007/2008, available at <https://hdr.undp.org/system/files/documents/2008-english.2008-english> (last visited June 16, 2014).
- Human Rights Council, *Mandate of the Special Rapporteur on the right to food* (A/HRC/RES/6/2).
- 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* (A/HRC/10/61).
- Human Rights Council, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, (A/64/255).
- Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, (A/61/214).

- Human Rights Council, *Report of the United Nations High Commissioner on the Analytical Study on the Relationship Between Human Rights and the Environment*, (A/HRC/9/34).
- Nationally determined contributions under the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma2022\\_04.pdf](https://unfccc.int/sites/default/files/resource/cma2022_04.pdf) (last visited June 10, 2024).
- Nationally determined contributions under the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma2023\\_12.pdf](https://unfccc.int/sites/default/files/resource/cma2023_12.pdf) (last visited June 21, 2024).
- OHCHR, *Guiding Principles on Business and Human Rights Implementing the United Nations “Protect, Respect and Remedy” Framework*, (HR/PUB/11/04).
- *Transforming our world: the 2030 Agenda for Sustainable Development* (A/RES/70/1), available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf) (last visited June 15, 2024).
- Understanding Human Rights and Climate Change, 2015, COP21, <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>, (last visited 4 June, 2024).
- United Nations Framework Convention on Climate Change, Report of the Conference of the Parties on its Sixteenth Session, FCCC/CP/2010/7/Add.1.
- *Water, in CLIMATE CHANGE 2022- IMPACTS, ADAPTATION, AND VULNERABILITY* 551, 587 (2023), available at <https://www.ipcc.ch/report/ar6/wg2/chapter/chapter-4/> (last visited June 16, 2024).

### **ONLINE SOURCES**

- Chandra Bhushan and Tarun Gopalakrishnan, *Environmental Laws and Climate Action: A case for enacting a framework climate legislation in India*, International Forum for Environment, Sustainability and Technology (2021), available at <https://shaktifoundation.in/wp-content/uploads/2021/12/Environmental-Laws-and-Climate-Action.pdf> (last visited June 14, 2024).

- *Climate Change and The Un Guiding Principles on Business and Human Rights*, OHCHR, <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/materials/KMBusiness.pdf> (Last Visited June 9, 2024).
- *Climate Change Information Sheet*, United Nations Environment Programme, <https://unfccc.int/resource/iuckit/infokit.pdf> (last visited June 9, 2024).
- CLIMATE CHANGE LAWS OF THE WORLD, <https://climate-laws.org/geographies/india>, (last visited June 12, 2024).
- CLIMATE CHANGE LAWS OF THE WORLD, <https://climate-laws.org/geographies/india> (last visited June 16, 2024).
- *Fact Sheet No. 38: Frequently Asked Questions on Human Rights and Climate Change*, OHCHR, [https://www.ohchr.org/sites/default/files/2021-09/FSheet38\\_FAQ\\_HR\\_CC\\_EN\\_0.pdf](https://www.ohchr.org/sites/default/files/2021-09/FSheet38_FAQ_HR_CC_EN_0.pdf) (last visited June 14, 2024).
- GLOBAL LITIGATION NEWS, <https://globallitigationnews.bakermckenzie.com/2024/04/17/verein-klimaseniorinnen-schweiz-and-others-v-switzerland-european-court-of-human-rights-identifies-shortfalls-in-swiss-climate-mitigation-measures-and-access-to-justice/> (last visited June 12. 2024).
- *India's richest 1% has highest concentration of wealth in decades*, THE ECONOMIC TIMES, [https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) (last visited June 16, 2024).
- *India's richest 1% has highest concentration of wealth in decades*, THE ECONOMIC TIMES [https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/india/indias-richest-1-has-highest-concentration-of-wealth-in-decades-study-shows/articleshow/108650367.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst) Ministry of Environment, Forest and Climate Change, Impact of Climate Change and National Action Plan on Climate



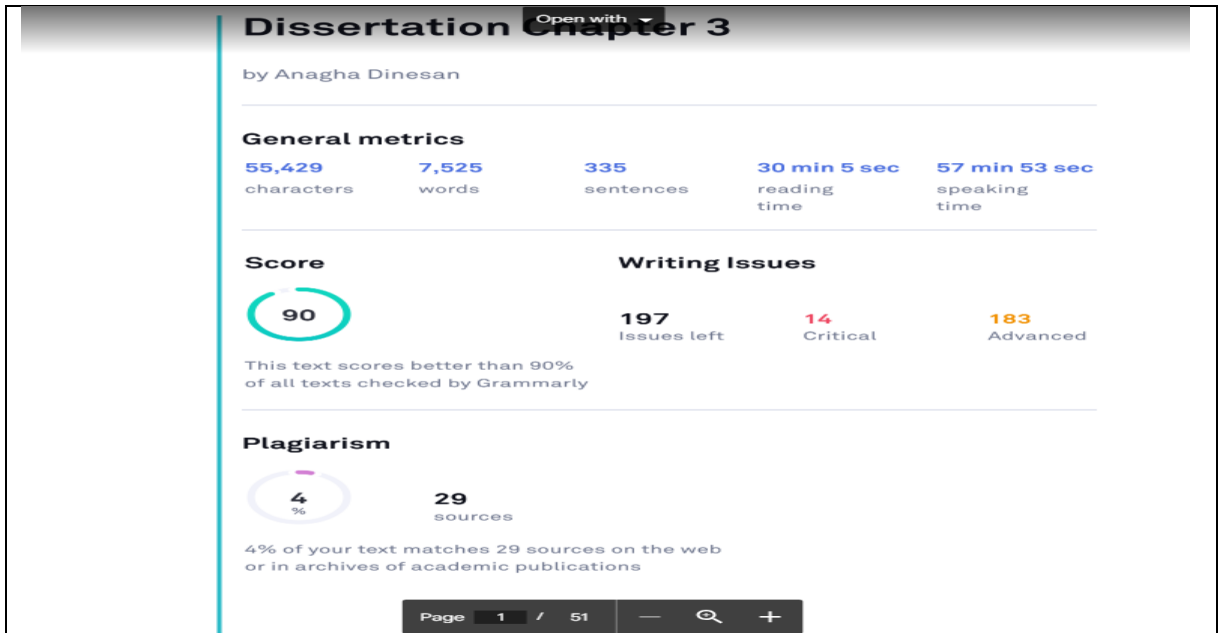
- Change (last visited March 12, 2024), <https://pib.gov.in/newsite/erecontent.aspx?relid=44098>.
- IPCC, <https://www.ipcc.ch/about/> (last visited June 9, 2024).
  - Maria Tigre, *A look back at significant decisions in climate litigation in 2021 - Climate Law Blog*, CLIMATE LAW BLOG (Dec. 23, 2021), <https://blogs.law.columbia.edu/climatechange/2021/12/23/a-look-back-at-significant-decisions-in-climate-litigation-in-2021/>.
  - Ministry of New and Renewable Energy 2017, Standing Committee on Energy, available at [http://164.100.60.131/lssccommittee/Energy/16\\_Energy\\_32.pdf](http://164.100.60.131/lssccommittee/Energy/16_Energy_32.pdf).
  - Mission Document of National Mission on Strategic Knowledge for Climate Change, [https://dst.gov.in/sites/default/files/NMSKCC\\_mission%20document%201.pdf](https://dst.gov.in/sites/default/files/NMSKCC_mission%20document%201.pdf) (last visited June 14, 2024).
  - *National Energy Conservation Day (India)*, RITIRIWAZ, <https://www.ritiriwaz.com/national-energy-conservation-day-india-14th-december/> (last visited June 15, 2024).
  - National Mission for Sustainable Agriculture (NMSA) Operational Guidelines, available at [https://nmsa.dac.gov.in/pdfdoc/NMSA\\_Guidelines\\_English.pdf](https://nmsa.dac.gov.in/pdfdoc/NMSA_Guidelines_English.pdf) (last visited June 14, 2024).
  - NRDC, <https://www.nrdc.org/stories/paris-climate-agreement-everything-you-need-know> (last visited June 14, 2024).
  - Planning Commission 2012, Five Year Plan, Vol. 1, available at [https://www.niti.gov.in/sites/default/files/2023-08/12fyp\\_vol1.pdf](https://www.niti.gov.in/sites/default/files/2023-08/12fyp_vol1.pdf).
  - The Environmental Protection Act of 1986, <https://www.indiacode.nic.in/bitstream/123456789/1876/4/A1986-29.pdf#search=environmental> (last visited June 14, 2024).
  - *Thematic Task Force for The Indian Himalayan Region*, Department of Science and Technology, available at [https://dst.gov.in/sites/default/files/NMSHE\\_Task%20Forces\\_booklet.pdf](https://dst.gov.in/sites/default/files/NMSHE_Task%20Forces_booklet.pdf) (last visited June 15, 2024).


- *Transforming our world: the 2030 Agenda for Sustainable Development* (A/RES/70/1), available at [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf) (last visited June 15, 2024).
- UNITED NATIONS CLIMATE CHANGE, <https://unfccc.int/process-and-meetings/the-kyoto-protocol/what-is-the-kyoto-protocol/kyoto-protocol-targets-for-the-first-commitment-period> (last visited June 10, 2024).
- UNITED NATIONS SUSTAINABLE DEVELOPMENT GROUP, <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach> (last visited Feb. 19, 2024).
- UNITED NATIONS SUSTAINABLE DEVELOPMENT GROUP, <https://unsdg.un.org/resources/human-rights-based-approach-development-coordination> (last visited Feb. 19, 2024).
- UNITED NATIONS, <https://www.un.org/en/chronicle/article/stockholm-kyoto-brief-history-climate-change#:~:text=Efforts%20to%20raise%20awareness%20of,a%20global%20response%20was%20required> (last visited June 8, 2024).
- UNITED NATIONS, <https://www.un.org/en/global-issues/human-rights> (last visited Feb. 19, 2024)
- UN-REDD PROGRAMME, <https://www.un-redd.org/about/about-redd> (last visited June 8, 2024).
- UN-REDD PROGRAMME, <https://www.un-redd.org/about/restored-unredd-programme> (last visited June 8, 2024).
- Vijeta Rattani 2018, *Coping with Climate Change: An Analysis of India's National Action Plan on Climate Change Volume 1*, Centre for Science and Environment, [http://cdn.cseindia.org/attachments/0.55359500\\_1519109483\\_coping-climate-change-NAPCC.pdf](http://cdn.cseindia.org/attachments/0.55359500_1519109483_coping-climate-change-NAPCC.pdf) (last visited June 13, 2024).

**APPENDIX****THE NATIONAL UNIVERSITY OF ADVANCED LEGAL  
STUDIES****Kalamassery, Kochi – 683 503, Kerala, India****CERTIFICATE ON PLAGIARISM CHECK**

1.	Name of the Candidate	Ms. Anagha Dinesan
2.	Title of thesis/dissertation	A Study on Human Rights Based Approach to Climate Change in India
3.	Name of the supervisor	Dr. Anil R. Nair
4.	Similar content (%) identified	4%
5.	Acceptable maximum limit (%)	10%
6.	Software used	Grammarly
7.	Date of verification	23.06.2024

*\*Report on plagiarism check, specifying included/excluded items with % of similarity to be attached in the Appendix*



Checked By (with name, designation & signature)	Dr. Anil R. Nair, Associate Professor	
Name and Signature of the Candidate	Ms. Anagha Dinesan	
Name & Signature of the Supervisor	Dr. Anil R. Nair, Associate Professor	