



Norwegian Embassy



AT THE NEXUS OF HUMAN RIGHTS AND CLIMATE CHANGE

a rights-based approach to
environmental impacts and policy responses



OBJECTIVES & OUTLINE OF THE STUDY

This Study Paper aims to provide an overview of the nexus between human rights and climate change. As such it can be relevant for practitioners and policymakers worldwide. The study was developed on the initiative of UNDP Viet Nam in light of the country's 2021 commitment to net zero by 2050, which would indicate an increased interest and accelerated prioritization of climate actions in Viet Nam. This prioritization is also reflected by Viet Nam's focus on the topic in the Human Rights Council, for which it was elected for the 2023-2025 term. Viet Nam has been one of the co-authors of the annual Human Rights Council Resolution on Climate Change and Human rights (together with Bangladesh and the Philippines). The latest Resolution was adopted by the UN Human Rights Council during its 47th session in Geneva in July 2021. The Resolution stresses the adverse impact of climate change on the full and effective enjoyment of human rights and calls for the better promotion and protection of human rights for all, including vulnerable people in response to the global challenges of climate change. Against this backdrop, UNDP and the Ministry of Foreign Affairs of Viet Nam co-organized an international workshop in July 2022 on the impacts of climate change on the human rights protection of vulnerable groups. Following up on UNDP's commitment to continue supporting Viet Nam in this area, this paper is presented in October 2022, ahead of COP27.

This Study is intended to inform and broaden the perspectives of policymakers and practitioners, foster discussions, and stimulate further research. It sets out the human rights framework aligned with the core UN human rights treaties and exemplifies how impacts of climate change can affect the enjoyment of those rights. Where possible, it also cites examples of good practices of climate actions in response to those impacts, that take their effect on human rights enjoyment into account in the policymaking process. Thereby, this Study provides useful insights for practitioners on the pitfalls and best practices. The principles of the human rights-based approach to policymaking are key in this regard. Therefore, these are described as well in the particular context of climate actions. Lastly, this paper considers the roles and responsibilities of duty bearers, considering that every institution, organization, community and even individual has a responsibility to contribute to human rights protection, respect and fulfillment, including the right to a healthy environment.

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SUMMARY

This paper explores the nexus between human rights and climate change. As reiterated by the United Nations General Assembly in the recent resolution recognising the human right to a clean, healthy and sustainable environment, climate change not only impacts the environment, but it also prevents the communities from effectively enjoying their individual and community rights and freedoms. Therefore, it is crucial for policy makers at a regional, national and subnational levels, to integrate those impacts in all phases of the policy-making process. Such policies should be formulated and implemented with dual objectives: to adapt and/or mitigate the effects of climate change, as well as improve the human rights enjoyment of persons affected by climate change.

In this paper, the human rights-based approach (HRBA) to climate action is guiding for the integration of human rights considerations in climate change mitigation and adaptation policies, strengthening their effectiveness and ensuring the enjoyment of human rights for all. Human rights provide a robust analytical framework for assessing the impacts of climate change on fundamental rights and freedoms, and legal entry point for enhanced climate-related actions. A HRBA to climate change is crucial to analyse “obligations, inequalities, and vulnerabilities, and seeks to redress discriminatory practices and unjust distributions of power”[1] in climate-related policies and actions.

The implementation of the human rights-based approach to climate-related policies on a practical level implies the pursuit of the core PANEL principles (Participation, Accountability, Non-Discrimination and Equality, Empowerment and Legality) of the 2030 Agenda for Sustainable Development and the Leave No One Behind core premise. Based on the international human rights law, the PANEL principles provide guidelines to policymakers on the effective integration of relevant human rights standards in climate-related policies.

In the study, the core UN human rights treaties and the main international climate legal instruments (such as the Paris Agreement) are considered, and the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are comprehensively set out in the context of climate change. The paper provides an overview of the principal ways in which climate change affects the enjoyment of human rights, with the division between substantive and procedural rights to signal

[1] Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change, p.9.

the interconnectivity with aspects of the human rights-based approach, as the latter borrows much of its concepts from procedural rights such as participation, consultation, and effective remedy or climate justice. The overview of duty bearers' obligations to respect, protect and fulfil indicates that States as duty bearers have an affirmative obligation to take effective measures to prevent and redress these climate impacts, and therefore, to mitigate climate change, and to ensure that all rights-holders have the necessary capacity to adapt to the climate crisis.[2] The key stakeholders in this context are not States only (businesses, for instance, can play a significant role), and citizens are not merely beneficiaries. In fact, all entities within society can, and at times should, be agents of change and bear responsibility for a clean, healthy, and sustainable environment.

The HRBA to climate change aims to ensure that persons, groups, and peoples in vulnerable situations have the right to participate in decision-making processes on climate action. Thereby, such approach should secure that adaptation and mitigation efforts do not have adverse effects on those that they aim to protect. In addition, an important component of the HRBA is also to ensure effective remedy should policies or their implementation fall short of human rights protection. This touches upon the challenging concept of environmental justice, including litigation and other forms of effective remedies.

The development of the nexus between human rights and climate change has been gaining traction in academics as well as among policy-makers and legal practitioners, and as the recognition of these linkages increases, the mechanisms to enforce climate justice strengthen. Consolidation of this nexus over the past decades culminated in the landmark General Assembly Resolution recognizing the right to a clean, healthy environment as a human right.[3] This paper aims to serve policy-makers, officials, and the broader public as an informative tool on the nexus between the protection and enjoyment of human rights and climate change.

Key words

Human rights; climate change; human rights-based approach; good practices; ICCPR; ICESCR; United Nations; UNFCCC; climate justice; duty bearers; mitigation; adaptation.

[2] Office of the High Commissioner for Human Rights, "Key Messages on Human Rights and Climate Change". Available online: https://www.ohchr.org/sites/default/files/KeyMessages_on_HR_CC.pdf

[3] UNGA Resolution A/76/L.75. Available online: <https://digitallibrary.un.org/record/3982508?ln=en>

TABLE OF CONTENTS

Human rights in the context of climate change	1
Part I. The human rights and climate change nexus	7
Part II. The human rights-based approach to climate-related measures	10
Participation	12
Accountability	12
Non-discrimination and Equality	13
Empowerment	14
Legality	14
Part III. Human rights relevant in the context of climate change	15
Civil and political rights	17
Substantive rights	17
Right to life	17
Prohibition of torture and inhuman or degrading treatment	19
Right to privacy and family life	20
Right to information	22
Right to peaceful assembly	24
Non-discrimination	26
Procedural rights	28
Right to participation	28
Right to an effective remedy	30
Social, economic and cultural rights	33
Right to health	33
Right to education	35
Right to housing	36
Right to food	38
Right to culture	40
Right to work	42
The right to a healthy environment	43
Part IV. The Duty bearers	47
General considerations	47
Substantive obligations	48
Obligation to adopt positive measures focused on mitigation of climate change	48

TABLE OF CONTENTS

Obligation to provide to all rights-holders the capacity to adapt to the consequences of climate change	49
Obligation to international cooperation	49
Obligation to ensure equity in climate action	50
Obligation to ensure that mitigation and adaptation measures do not contribute to human rights violations	50
Procedural obligations	51
Obligation to ensure effective remedy for human rights harms caused by climate change	51
Obligation to ensure public participation	51
Obligation to ensure access to information	51
Part V. Concluding remarks and next steps	52
ANNEXE I: The consolidation of the nexus between human rights and climate change on the international level	54
ANNEXE II: Treaty ratifications by Viet Nam	62
ANNEXE III: Climate-related case-law	63
Human rights used as legal grounds for the reduction of the GHG emissions	63
Cases submitted on the ground of the right to a healthy environment	65
Cases submitted against private companies	66



PART I. THE HUMAN RIGHTS AND CLIMATE CHANGE NEXUS

Climate change has been universally recognized as one of the most serious threats to the enjoyment of human rights.[4] In 2015, the UN's Secretary-General Antonio Guterres declared that "the climate crisis is the biggest threat to our survival as a species and is already threatening human rights around the world".[5] The seriousness of the threat stems from the extremely harmful effects that climate change brings about not only on the environment, but also on the lives of individuals and communities. In this sense, climate change threatens both human and natural systems if no systematic measures to reduce greenhouse gas (GHG) emissions with a net zero target are taken, and global warming is kept below 2 degrees Celsius. Simultaneously, adaptation measures need to be implemented to manage climate risks, reduce the impacts of climate change on populations, especially the most vulnerable, and strengthen their resilience. Although climate change is widely recognised as a global threat, its most tangible effects are experienced at the local level. Therefore, climate action is needed at all levels, especially at the national and subnational levels.

The specificity of climate change harm, which cannot be compared to any other environmental harm, is challenging from a legal point of view as it affects populations unequally. According to the sixth Assessment Report (AR6) of the Intergovernmental Panel on Climate Change (IPCC)[6], the most vulnerable regions to climatic hazards are West-, Central- and East Africa, South Asia, Central and South America, and Small Island Developing States.[7] The risks to which these regions are exposed due to their geographical location is further exacerbated by a number of other pre-existing features which include poverty, high reliance on natural climate-sensitive resources such as primary sources of livelihood (for instance smallholder farming, breeding and fishing).[8] As such, developing countries, therefore, bear the brunt of the negative effects of climate change due to their intersectional vulnerabilities, resulting in a "lower coping capacity".[9] As stated in the Global Climate Risk Index, eight out of ten most affected countries "by the quantified impacts of extreme weather events in 2019 belong to the low-to lower-middle income category", with "half of them [being] Least Developed Countries".[10]

[4] UNEP and Columbia Law School, *Climate Change and Human Rights* (2015) p. 2. Available online:

https://wedocs.unep.org/bitstream/handle/20.500.11822/9530/-Climate_Change_and_Human_Rightsclimate-change.pdf.pdf?sequence=2&BisAllowed=

[5] Secretary-General, "The highest aspiration: a call to action for human rights", remarks made to the Human Rights Council on 24 February 2020. Available online: www.un.org/sg/en/content/sg/statement/2020-02-24/secretary-generals-remarks-the-un-human-rights-council-%E2%80%9Cthe-highest-aspiration-call-action-for-human-rights-delivered-scroll-down-for-all-english

[6] The IPCC has been created in 1988 by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) following the UN General Assembly Resolution 43/53 of 6 December 1988. Available online: <https://www.ipcc.ch/site/assets/uploads/2019/02/UNGA43-53.pdf>

[7] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, *Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers*, 2022, p. SPM-12. Available online:

https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[8] Ibidem.

[9] Eckstein D., Künzel V., Schäfer L., *Global Climate Risk Index 2021. Who Suffers Most from Extreme Weather Events? Weather-Related Loss Events in 2019 and 2000-2019*, Germanwatch, January 2021, p. 5. Available online:

https://www.germanwatch.org/sites/default/files/Global%20Climate%20Risk%20Index%202021_2.pdf

[10] Ibidem.

The disproportionate burden placed upon the least developed countries is even more striking considering their low historical emissions of greenhouse gas in the atmosphere. In this respect, the IPCC AR6 report noted that the historic GHG emissions of the least developed countries have been overall insignificant, only accounting for “0.4 percent of total cumulative CO₂ emissions”.[11] Developed countries, on the contrary, are responsible for around 57 percent of historical GHG emissions.[12]

States’ responsibilities for the emissions of greenhouse gases are reflected in the international legal framework related to climate change (the United Nations Framework Convention on Climate Change, or UNFCCC, and the Paris Agreement). Article 3 of the UNFCCC (1992), for instance, states that “The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities”.[13]

As it appears, the threat posed by climate change is inherently discriminatory. By disproportionately impacting populations that are already in vulnerable situations “owing to factors such as geography, poverty, gender, age, indigenous or minority status, and disability”,[14] climate change exacerbates their exposure to climate-related risks. Indeed, it is estimated that the higher the average global temperature, the greater the burden on vulnerable groups would become, with subsequent repercussions for the enjoyment of human rights. In its Sixth Assessment Report, the IPCC highlighted that “global warming, reaching 1.5°C in the near-term, would cause unavoidable increases in multiple climate hazards and present multiple risks to ecosystems and humans (...). The level of risk will depend on concurrent near-term trends in vulnerability, exposure, level of socioeconomic development and adaptation”.[15]

Climate change has clearly tangible implications on the full enjoyment of a wide range of human rights, including the right to life, the right to the highest attainable standard of physical and mental health, the right to food, the right to an adequate standard of living, among others. Against this backdrop, human rights law provides a powerful instrument for its potential to rebalance the disproportionately negative effects of climate change on the most vulnerable, and to prevent climate-related harms. A human rights-based approach to climate policymaking, for instance, can inform such processes and generate more effective and sustainable policy outcomes. Such an approach will be considered in the next chapter.

[11] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Mitigation of Climate Change. Summary for Policymakers, 2022, p. 2-26. Available online:

https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf

[12] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Mitigation of Climate Change. Summary for Policymakers, 2022, p. 2-26. Available online:

https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf

[13] Equity means substantive equality, or equality in outcomes, as opposed to formal equality which focuses on neutrality and procedural equality or equal opportunity, but does not necessarily generate equal results. For more information on substantive and formal equality, refer to C.A. MacKinnon, "Substantive Equality: A Perspective", Minnesota Law Review (2011). Available online:

<https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1382&context=mlr>

[14] Resolution 18/22. See also: IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers, 2022, p. SPM-12. Available online:

https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[15] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers, 2022, p. SPM-13.

The suitability of human rights to address the negative effects of climate change in policymaking is justified by their features of universality,[16] inalienability,[17] interdependency,[18] and indivisibility.[19] In this way, human rights enhance climate-related policies by providing those affected by climate change with legal protection of their rights before and/or after climate-related harm.

Firstly, human rights law helps to identify and assess the adverse effects of climate change on human rights. Studies conducted by the Human Rights Council and other UN bodies demonstrate the correlation between climate change and deterioration of a wide range of human rights (see Annexe I). In addition, human rights frameworks help to analyse the different impacts of climate-related policies, actions, and programmes on the human rights of vulnerable groups— e.g., some groups of women (poor women, pregnant women, women-headed households, ethnic minority and indigenous women), children, elderly people, and persons with disabilities.

The integration of human rights considerations into climate change mitigation and adaptation policies and measures would not only strengthen the climate-related policies and actions, but it would also foster human rights by ensuring their actual enjoyment. For example, some hydropower projects, which are considered by the International Energy Agency as one of the key solutions for clean energy transition[20] given their capacity to produce cheap and flexible electricity, and their low carbon emissions, have proved to be particularly harmful for the enjoyment of a number of human rights, including the right to a healthy environment, the right to life, the right to an adequate standard of living, and the right to food and (safe) water.[21]

Vulnerable ethnic groups and indigenous populations in particular face continuous violations of their rights, for instance the right to (land) property and the right to manage the natural resources within their territories have been especially damaged by such projects. These, in fact, have caused the deterioration of the living standards of such communities, whose members, being mostly engaged in smallholding farming and fishing, depend on their lands for their sustenance. In addition, when incidents have occurred, which have often resulted in the flooding of community forests and cultivated farms, communities have been forcibly displaced and, in the absence or insufficient compensatory measures, have been driven further into poverty.[22]

[16] At the basis of the principle of universality of human rights is a human's dignity. Thus, all people everywhere in the world are entitled to human rights.

[17] Human rights cannot be taken away other than as a consequence of a fair trial.

[18] All human rights are interdependent. The breach of one right could entail a breach of others. For example, right to life in the context of the negative effects of climate change.

[19] A human being has a wide range of human rights, such as civil, political, economic, social, or cultural. All rights have equal status and there is no hierarchy of human rights.

[20] International Energy Agency, Press release, Hydropower has a crucial role in accelerating clean energy transitions to achieve countries' climate ambitions securely, 30 June 2021. Available online: <https://www.iea.org/news/hydropower-has-a-crucial-role-in-accelerating-clean-energy-transitions-to-achieve-countries-climate-ambitions-securely>

[21] Heckenberger S., "Hydropower – The Effect of Climate Mitigation on Human Rights", 21 December 2021, Global Human Rights Defence. Available online: <https://ghrd.org/hydropower-the-effect-of-climate-mitigation-on-human-rights/>

[22] Aung, T. S., Fischer, T. B. & Azmi, A. S., "Social Impacts of large-scale hydropower project in Myanmar: a social life cycle assessment of Shweli hydropower dam 1", The International Journal of Life Cycle Assessment, 26, (2021) pp. 417-433.

Finally, human rights law offers a legal basis to tackle the accountability and enforcement gaps in the international climate regime, with the resort to international human rights law which benefits national and international climate action by encouraging compliance with human rights standards and by increasing their level of ambition.[23] In conclusion, while human rights obligations and standards should be used to bolster national and international climate-related policymaking with a focus on mitigation and adaptation, the entry points provided by the human rights framework can be resorted to for enhancing policy coherence, advancing climate justice and sustainability, and for delivering a range of cross-cutting benefits such as the promotion of gender equality and poverty reduction.



PART II. THE HUMAN RIGHTS-BASED APPROACH TO CLIMATE-RELATED MEASURES

Human rights provide a robust analytical framework for assessing the impacts of climate change on fundamental rights and freedoms, and a (legal) entry point for enhanced climate-related actions. The mainstreaming of human rights considerations through the application of the human rights-based approach (HRBA) aims to analyse “obligations, inequalities, and vulnerabilities, and seeks to redress discriminatory practices and unjust distributions of power”[24] in climate-related policies and actions.

Thereby, the HRBA is a useful tool for policymakers to ensure human rights enjoyment is considered at the outset of policy-making processes as well as throughout their implementation to ensure effective and sustainable outcomes of climate policies and actions. In addition, the HRBA is a fertile ground for climate justice and climate litigation as it aims to empower the rights-holders to exercise their rights, hold the duty-bearers accountable, and reinforce their capacity to respect, protect and fulfil human rights obligations. As such, the HRBA aims at achieving climate justice through both policy-making and effective remedy, considering both ex ante and ex post dimensions.[25]

[23] See the Annexe I on the consolidation of the nexus between human rights and climate change.

[24] Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change, p. 9.

[25] In this context, the terms ex post, and ex ante refer to dimensions prior to implementation of measures, for instance during policy-making processes, as well as after implementation, for instance in the form of litigation or other effective remedy.

At its core, climate justice seeks fairness in the means to address the impacts of climate change, and applying a HRBA is a way to reach that fairness. The Preamble of the Paris Agreement refers expressly to the term “climate justice”: “noting the importance for some of the concept of “climate justice” when taking action to address climate change”. The concept of climate justice reflects the will to protect those with minimum capacity to protect themselves and who bear the least responsibility for the greenhouse gas emissions as climate change can have differing social, economic, public health, and other adverse impacts on vulnerable segments of populations. It goes far beyond environmental justice as it embraces dimensions like food security, health security, energy security, water security, human displacement, disaster management, technology, and infrastructure. Climate justice aims to equitably share actions focused on minimising dangerous effects of climate change or adapting to the changing climate and ensuring equitable distribution of the benefits of the transition to a carbon-neutral world.

To achieve climate justice, policymakers and duty-bearers must place the HRBA at the centre of designing mitigation or adaptation policies, programmes, and actions. It requires that climate action is consistent with existing human rights agreements, obligations, standards, and principles”. [26]

- Mitigation measures aim to limit the adverse long-term effects of climate change by reducing greenhouse gases and effective protection of carbon sinks.[27] Mitigation measures should integrate the HRBA.
- Adaptation measures aim to adapt social and biological systems to the adverse and disproportionate effects of climate change by reducing their vulnerability. Adaptation policies are particularly important in countries at the forefront of climate change, such as small island developing states, that bear the burden of disproportionate and serious threats to their human-made and environmental systems. Considering the purpose of the adaptation measures, climate justice fits perfectly as it helps to address the negative impacts of climate change in those countries.

The application of a HRBA to climate-related measures such as mitigation and adaptation measures involves the integration of relevant human rights standards deriving from international or domestic legal acts. In practice, applying the HRBA to climate-related policies implies pursuing the core PANEL principles (Participation, Accountability, Non-Discrimination and Equality, Empowerment and Legality) of the 2030 Agenda for Sustainable Development. Based on the international human rights law, the PANEL principles provide guidelines to policymakers on the effective integration of relevant human rights standards in climate-related policies.

[26] Submission of the Office of the High Commissioner for Human Rights to the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change, p. 9.

[27] See: IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Mitigation of Climate Change. Summary for Policymakers, 2022. Available online: https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf

A. PARTICIPATION

Participation entails that everyone affected by the adverse effects of climate change has a right to participate in the climate-related decision-making processes coordinated by the duty-bearers. To ensure the principle of "nothing about us, without us" not only contributes to the effectiveness, but also increases the democratic legitimacy of policy outcomes. Policymakers must integrate the inclusive participation, consultation, and engagement of all sectors of society, including the most affected and vulnerable communities. The participation of women, youth, migrants, ethnic minorities, persons with disabilities, academia, and social organizations is particularly important to provide sustainable policy and climate justice.

This bottom-up public involvement enriches the climate change policies by bringing specific knowledge, opinions, and needs of communities affected by the negative climate change effects. In that way, the principle of participation appears to be an empowering tool for vulnerable communities as it offers to them the right to be involved in the decision-making processes that directly affect their lives and human rights. Guaranteed by the provisions of the International Bill of Rights, the participatory principle is embodied in the international climate regime (see hereafter, Chapter III, A, a).

B. ACCOUNTABILITY

Accountability provides opportunities to the vulnerable populations and people affected by the adverse climate change effects to hold the duty-bearers accountable for their international and national commitments in the area of human rights. Climate litigation based on human rights is an effective tool for enhancing the implementation of climate-related obligations of duty-bearers such as States and businesses (see Chapter IV). It helps to hold the duty-bearers accountable for their obligations and demand more ambitious climate change mitigation and adaptation goals. For this purpose, the right to an effective remedy is crucial in a democratic society as it ensures the legal remedies to protect the human rights that have been violated.

Recent developments in climate litigation and the frequency of filing climate lawsuits in front of national and regional jurisdictions demonstrate the attractiveness and effectiveness of human rights in addressing climate change. The landmark judgment *Urgenda Foundation v. The State of The Netherlands*[28] (2019) is particularly indicative of the ambitious and promising application of human rights standards to climate-related obligations of a State. The national court recognized the State's obligation to protect the human rights to life and to family life guaranteed by the European Convention on Human Rights from the adverse impacts of climate change, and oblige the government to reduce GHG emissions by at least 25 percent by 2020. More frequent extreme weather events, the strengthened attribution science,[29] and inactions or insufficient government actions force individuals, communities, and organisations to seek justice in front of national and international courts[30] and demand duty-bearers to take action according to their international commitments to mitigate and adapt to the adverse climate change effects (See Annexe III).

[28] The Supreme Court of the Netherlands, 20 December 2019, *Urgenda Foundation v. The State of The Netherlands*. Available online: <http://climatecasechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/>

[29] Burger M., Wentz J., and Horton R., "The Law and Science of Climate Change Attribution", 51 *Env'tl. L. Rep.* 10646, 2021, Columbia Law School. Available online: https://scholarship.law.columbia.edu/sabin_climate_change/32

[30] UNEP, *Global Climate Litigation Report: 2020 Status Review*, 2020.

The very recent decision adopted by the Supreme Court of Brazil^[1] (2022) recognizing the Paris Agreement is a human rights treaty is another ambitious and promising ruling revealing the global movement of recognition of the necessity to integrate the HRBA to climate litigation (See Part IV).

Climate mediation or conciliation is another powerful tool that might play an important role in holding accountable the duty-bearers and responding effectively to conflicts raised on the grounds of human rights. The task to organize mediation might be endorsed by the National Human Rights Institutions to resolve the conflicts between rights-holders and the duty-bearers and to create an understanding between parties. However, considering the gravity of the climate crisis and the urgency of climate action, the non-legally binding characteristic of the decision issued at the end of the mediation process by a National Human Rights Institution and its lack of enforceability presents obvious challenges to effective human rights protection.

C. NON-DISCRIMINATION AND EQUALITY

According to the principle of Non-discrimination and Equality, everyone is entitled to exercise their human rights without any discrimination. In the context of climate change, the principle of non-discrimination and equality reflects the purpose of climate justice. It is useful to consider the difference between formal and substantive equality. Whereas formal equality focuses on a neutral character of laws and policies, substantive equality aims at equal outcomes of laws and policies. According to international human rights law, it does not suffice to focus on formal equality, but rather the objective of laws and policies should be to accomplish equitable outcome for and among addressees.

Considering the same principles of non-discrimination and equality in a global context, it should be noted that climate change disproportionately places the burden on people that historically have contributed less to GHG emissions. The human rights-based approach acknowledges these discrepancies and aims to ensure the effective protection of people that are already in vulnerable situations (women, youth, seniors, persons with disabilities, indigenous people, ethnic minorities, etc.) and suffer the most from adverse effects of climate change.^[32] For example, it has been stated numerous times that women are more vulnerable to the adverse effects of climate change, due to the underlying inequalities in access to land, collateral, lower education, income, and the overwhelming share of unpaid work, in particular in low-income countries.^[33] The human rights-based approach seeks to take into account the various impacts in order to achieve the effective enjoyment of human rights for all and to attain climate justice.

[31] Supreme Court of Brazil, PSB and al. v. Brazil (on Climate Fund), 7 July 2022. See the summary in English on <http://climatecasechart.com/non-us-case/psb-et-al-v-federal-union>

[32] See, in particular: Human Rights Council, The impacts of climate change on the human rights of people in vulnerable situations. Report of the Secretary-General, 6 May 2022. Available online: <https://www.ohchr.org/en/documents/thematic-reports/ahrc5057-impacts-climate-change-human-rights-people-vulnerable>

[33] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Mitigation of Climate Change. Summary for Policymakers, 2022, p. 1-29. Available online: https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_FinalDraft_FullReport.pdf

D. EMPOWERMENT

Empowerment entails that all individuals are entitled to exercise and claim the respect, protection, and fulfilment by the duty-bearers of their human rights guaranteed by the international and national legal instruments in the context of climate-related adverse effects. This principle ensures that everyone understands the rights to which they are entitled and participate in the decision-making processes of climate-related measures, actions, and programmes that directly affect their lives.

To secure the empowerment of everyone to exercise their human rights, especially of populations that are in vulnerable situations, there is a need to realize a human rights impact assessment of climate change based on transparent data and scientific evidence. Each designed policy must respect the requirements of data transparency, access to information related to climate change and its impacts on human rights, and the effective participation of individuals in policy designing concerned by the adverse effects of climate change.

E. LEGALITY

Legality designates the condition according to which the human rights-based approach to climate change should be founded on national or international human rights law. In the absence of a specific international legal instrument providing respect of human rights in the context of climate change, the legality principle calls for the enforceability of existing human rights provided by the international and national human rights law in the context of climate change (see Chapter III). In this context, ex-ante and ex-post human rights assessments of existing impacts of climate change on human rights enjoyments before and after the formulation and implementation of climate actions are imperative. In the next Chapter, the relevant human rights and their legal provisions in international human rights law are set out to provide an indication of which rights and freedoms should be considered in such assessments as well as why and how.



PART III. HUMAN RIGHTS RELEVANT IN THE CONTEXT OF CLIMATE CHANGE

The international legal climate regime is composed primarily of the United Nations Framework Convention on Climate Change (UNFCCC), and its additional instruments such as the Kyoto Protocol and the Paris Agreement. Designed specifically to address the adverse effects of climate change, those instruments do not contain specific provisions dedicated to the effective protection of human rights. If the UNFCCC's text is limited to recognizing the social and economic dimensions of climate change,[34] the Paris Agreement did not go far beyond the acknowledgment that States "should, when taking action to address climate change, respect, promote and consider" their human rights-related obligations. However, this acknowledgment of States' human rights obligations when taking actions to tackle climate change in the Preamble is enough for John H. Knox, the former and the first United Nations Special Rapporteur on human rights and environmental issues,[35] to qualify the Paris Agreement as "a human rights treaty". [36] This interpretation is increasingly adopted by Courts around the world.

The Paris Agreement is however not a human rights treaty "in the usual sense" as it does not confer any rights for the benefit of individuals and does not create any compliance mechanism allowing the control of the respect of those obligations. Instead, it encourages the use of the existing human rights frameworks in the context of climate change. The minimal influence that this provision of the Preamble could have on Parties is to integrate on a voluntary basis the human rights concerns during the designing and implementation of climate-related laws and policies. This recognition of the importance of human rights in the climate legal regimes is crucial for the further enhancement of the nexus existing between human rights and climate change (see Annexe I).

Human rights have great potential to serve as a tool for the interpretation of the Paris Agreement. In particular, the national judges are perfectly placed to take over this task. In the very recent case of 7 July 2022 PSB et al. v. Brazil (on Climate Fund),[37] Brazil's Supreme court ruled that the environmental treaties, among which is the Paris Agreement, are human rights treaties with a supranational value. This characterization has an important implication for advancing the human rights-based approach to climate change as it gives to the Paris Agreement a supranational value in the legal order of Brazil. This legal reasoning of national judges has contributed to the conclusion that the government has a constitutional duty to make the Climate Fund's resources work for purposes of mitigating climate change. This landmark decision encourages the further integration of the human rights-based approach to climate action.

[34] The embryonic connection with human rights could be found in several articles of the UNFCCC: Article 3, Article 4, Article 6.

[35] John H. Knox served two mandates as United Nations Special Rapporteur on human rights and environmental issues from 2012 to 2018.

[36] Knox John H., "The Paris Agreement as a Human Rights Treaty", in *Human Rights and 21st Century Challenges: Poverty, Conflict, and the Environment*, Dapo Akande, Jaakko Kuosmanen, Helen McDermott, and Dominic Roser eds., Oxford University Press, 6 June 2018, p. 1. Available online: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3192106

[37] See the summary in English on: <http://climatecasechart.com/non-us-case/psb-et-al-v-federal-union>

International human rights law offers a wide range of legal instruments, binding or not, that might be used by international society, States authorities, and individuals to address climate change on both international and national levels. International human rights law contains already various human rights and freedoms, the scope of which can be extended to climate-related harms.

Those rights can be found in the so-called “international bill of rights”, composed of the Universal Declaration of Human Rights (UDHR)[38], the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social, and Cultural Rights (ICESCR).[39] Other international human rights conventions are also included in this study.[40]

Moreover, this study relies often on the judicial interpretation of human rights provided by the European Court of Human Rights (ECtHR) which has accumulated rich case law on environmental matters. The interconnection between human rights and the environment established by the ECtHR is an entry point for further development of climate-related case law. The rising number of climate change litigation before the ECtHR, demonstrating the strong link between climate change and human rights, offers significant examples for this study. So far, there is no other international or regional judicial authority that has a similar wealth of precedent-setting case law on these issues with legally binding force.

For the purposes of clarity, this study adopts the classic distinction between civil and political rights on the one hand, and social, economic, and cultural rights, on the other hand. The right to a healthy environment, which is particularly relevant for the purposes of this study, but does not fit into those categories, is therefore considered separately. Instead, it is derived from the Paris Agreement and the General Assembly Resolution of 28 July 2022, and encompasses multiple other rights that are already set out in the core treaties.



[38] Adopted on 10 December 1948 by the United Nations General Assembly.

[39] Adopted on 16 December 1966 by the United Nations General Assembly. The ICESCR entered into force on 3 January 1976. The ICCPR entered into force on 23 March 1976.

[40] As the study focuses on relevance for Viet Nam, particular emphasis is on the international instruments ratified by this country (see the Table in Annexe II), with occasional references to other international human rights instruments in order to enhance the research.

A.CIVIL AND POLITICAL RIGHTS

The international legal climate regime is composed primarily of the United Nations Framework Convention on Climate Change (UNFCCC), and its additional instruments such as the Kyoto Protocol. Civil and political rights and freedoms are inherent to human beings and ensure their participation in public life. The main purpose of these rights is to protect individuals from interference by States' authorities, private actors, and other individuals in the exercise of their rights and freedoms.

Civil and political rights can be divided into substantive and procedural rights. Substantive rights refer to basic material rights that individuals hold by virtue of their human dignity, whereas procedural rights are the rights that guarantee the rights-holders the exercise of their substantive human rights and enable effective remedy in case their human rights protection is neglected.

Importantly, there is no hierarchy between substantive and procedural rights. Rather, they are interrelated and interdependent. It can be helpful for the analytical framework to make this distinction, but it does not imply that one category should be prioritized over another. This study sets out how substantive rights are directly affected by the adverse consequences of climate change and illustrates the good practices adopted by countries to tackle such consequences.

Moreover, this Chapter highlights procedural rights that proved crucial to ensure enjoyment of substantive human rights in the context of the negative effects of climate change. Procedural rights secure individuals the right to participate in the climate-related decision-making processes that directly impact their lives and the right to an effective remedy in case of a breach of their substantive human rights. As such, procedural rights, though codified predominantly in the ICCPR, apply equally to the enforcement of civil and political as well as economic, social, and cultural human rights.

1.Substantive rights

a. Right to life

International instrument	Article	Provision
UDHR	3	"Everyone has the right to life, liberty and security of person"
ICCPR	6	"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".

The right to life, as the “supreme right of the human being”,^[41] is protected by either the UDHR or the ICCPR (see the Table above). The supreme character of the right to life is justified by the fact that this right is an absolute precondition to the exercise of all other human rights. In the context of climate change, the right to life would entail that all State parties ought to take effective measures against the foreseeable and preventable loss of life due to climate change.

Climate change directly threatens the right to life. The IPCC has already alarmed that the risk of more frequent and severe weather events is “moderate to high at temperatures of 1°C to 2°C above pre-industrial levels” which inevitably has negative consequences on the exercise of the right to life. ICCPR General Comment No. 36 (2018) on the right to life highlighted that “environmental degradation, climate change, and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life”.^[42] In the decision *Ioane Teitiota v. New Zealand*,^[43] filed by a citizen of Kiribati claiming that his right to life has been violated by the refusal of New Zealand’s authorities to grant him asylum on the basis of his claim that Kiribati is uninhabitable because of the adverse effects of climate change, the Human Rights Committee decided that while there has been no violation of M. Teitiota’s right to life, “the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending States”.^[44]

It is true that extreme weather events are the most tangible and dramatic threat to the enjoyment of the right to life. It is however important to underline that slow-onset events generated by climate change have also a negative influence on the right to life “through drought, increased heat, sea level rise, expanding disease vectors and a myriad of other ways”.^[45] The sixth IPCC report emphasized that “between 2010-2020, human mortality from floods, droughts and storms was 15 times higher in highly vulnerable regions, compared to regions with very low vulnerability”.^[46] Moreover, it has been highlighted that heat-related mortality would increase due to global warming.

Examples of extreme weather events with deathly outcomes are numerous. According to the Global Climate Risk Index 2021, between 2000 and 2019 more than 475 000 people have lost their lives worldwide due to extreme weather events.^[47]

[41] Human Rights Committee, 4 April 1985, *Baboeran-Adhin et al. v. Suriname*, communication N° 146/1983 and 148-154/1983, UN Doc. CCPR/C/24/D/146/1983.

[42] Human Rights Committee, General Comment No. 36 (2018) on article 6 of the ICCPR, on the right to life, 30 October 2018. Available online: https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

[43] *Ioane Teitiota v. New Zealand* (advance unedited version), CCPR/C/127/D/2728/2016, UN Human Rights Committee (HRC), 7 January 2020. Available online at: <https://www.refworld.org/cases,HRC,5e26f7134.html>, accessed 10 July 2022.

[44] *Ibidem*.

[45] See: Submission of the OHCHR to the 21st Conference of the Parties to the UNFCCC, p. 14. Available online: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>

[46] IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers, 2022, p. SPM-12. Available online: https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[47] Eckstein D., Künzel V., Schäfer L., Global Climate Risk Index 2021. Who Suffers Most from Extreme Weather Events? Weather-Related Loss Events in 2019 and 2000-2019, Germanwatch, January 2021, p. 6. Available online: https://www.germanwatch.org/sites/default/files/Global%20Climate%20Risk%20Index%202021_2.pdf

In 2007 the category-5 tropical cyclone Sidr, the worst natural disaster that occurred in Bangladesh, caused at least 3,447 deaths, with estimates of 15,000.[48] Ranked 91 among 191 countries by the 2019 Inform Risk Index,[49] Viet Nam is exposed to high disaster risk levels such as storms, floods, and droughts. In 2017, typhoon Damrey that hit Viet Nam's South-Central Coast caused approximately 107 deaths and the destruction of people's livelihoods and property.[50]

Examples of good practice:

The household air pollution produced using inefficient cookstoves burning biomass, kerosene, and coal is the reason for millions of premature deaths. Women and children are exposed the most to this pollution as traditionally the burden of unpaid care and domestic work on women is much higher than on their male counterparts, and so they spend more of their time in their houses and in kitchen areas.[51] Providing access to clean cooking employing "liquified petroleum gas, piped natural gas, or electricity"[52] is a good strategy to reduce indoor air pollution and in doing so of reducing premature deaths. Those practices have been adopted by India, Indonesia, Pakistan, Sudan, and Viet Nam.[53] In addition to improving the rights to life in general, the main health benefits of the improved cookstoves are disproportionately for women as they do most of the cooking. Thereby this intervention also contributes inter alia to the equity among climate action beneficiaries.

b. Prohibition of torture and inhuman or degrading treatment

International instrument	Article	Provision
UDHR	5	"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment »
ICCPR	6	"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation"

[48] See: <https://www.theweathernetwork.com/ca/news/article/this-day-in-weather-history-november-15-2007-bangladesh-beaten-down-by-sidr> Bangladesh is among the 10 countries most affected by climate change in 2000-2019, see also:

https://www.germanwatch.org/sites/germanwatch.org/files/2021-01/crisis-2021_table_10_countries_most_affected_from_2000_to_2019.jpg

[49] INFORM is a collaboration of the Inter-Agency Standing Committee Reference Group on risk, Early Warning and Preparedness and the European Commission. Source: <https://climateknowledgeportal.worldbank.org/country/vietnam/vulnerability>

[50] Source: <https://blogs.worldbank.org/eastasiapacific/resilient-shores-risks-and-opportunities-vietnams-coastal-development>

[51] ILO, press release 27 June 2018, see: https://www.ilo.org/asia/media-centre/news/WCMS_633284/lang-en/index.htm#:~:text=Care%20economy-,ILO%3A%20Women%20do%204%20times%20more%20unpaid%20care%20work%20than,prevent%20looming%20global%20care%20crisis.

[52] UNEP, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: good practices, p. 24. Available online:

<https://wedocs.unep.org/bitstream/handle/20.500.11822/32450/RHE.pdf>

[53] International Energy Agency, World Bank, et al. 2019. Tracking SDG 7: The Energy Progress Report 2018.

Directly linked to human dignity and physical integrity, the prohibition of inhuman and degrading treatment is an important value in a democratic society and underscores the inherent dignity of all persons. The prohibition of cruel, inhuman, and degrading treatment can be infringed either by the deliberate infliction of ill-treatment on a person or by negligence or failure to take appropriate action, or provide an adequate standard of care. Thus, the prohibition of cruel, inhuman, and degrading treatment imposes negative and positive obligations on the duty-bearer (State): the obligation to not infringe the human's right to not be submitted to cruel or inhuman treatment and the obligation to take positive action to protect individuals from prohibited treatment.

In the context of climate change, this particular right is not obvious to use. However, in the first climate case brought in front of the European Court of Human Rights (ECtHR), *Duarte Agostinho and al. v. Portugal and 32 other States*,^[54] the applicants' claims on the ground of the right to life and right to private and family life have been reconsidered by the ECtHR when the case has been communicated to the 33 respondent States. Indeed, the Court raised on its own motion the question to know whether the applicants could be considered as victims, direct or potential, of the violation of article 3 of the Convention (prohibition of inhuman and degrading treatment) because of the greenhouse gas emissions emitted by 33 respondent States.^[55]

While this case is under consideration before the ECtHR, the case sets a precedent that the prohibition of cruel, inhuman, or degrading treatment could be used in the context of climate change. The applicability of the right to not be submitted to cruel, inhuman, or degrading treatment in the context of climate change would certainly be ground-breaking as it has a great potential to recognize that the adverse consequences of climate change induced by the emissions of greenhouse gases could be considered cruel, inhuman or degrading treatment.

c. Right to privacy and family life:

International instrument	Article	Provision
UDHR	12	"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks"
ICCPR	17	"1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks".

[54] App. no 39371/20. Available online: [https://hudoc.echr.coe.int/fre#{\"itemid\":\[\"001-206535\"\]}](https://hudoc.echr.coe.int/fre#{\)

[55] Ibidem.

The right to privacy and family life ensures individuals the right to respect for the individual's private and family life, their home, and correspondence. At first glance, the application of this right is hardly imaginable in the context of climate change. However, this right constitutes a legal basis for the climate-related petitions brought in front of the ECtHR. It is under article 8 (the right to privacy and family life) of the European Convention of Human Rights (ECHR) that the ECHR developed the right to a healthy environment.[56]

Following situations can fall within the scope of the right to privacy and family life: neighbourhood disturbances caused by noise pollution from aircraft flights,[57] nauseating fumes from a water and waste treatment plant,[58] toxic emissions from polluting steelworks,[59] and continuous emissions of noise and odours from a plant storing and processing “special waste” classified as hazardous or non-hazardous.[60] Aiming to avoid creating a new right to health under the right to private and family life, the Court rather focuses on the concept of the well-being of the individual, which also includes the health of individuals.

The applicants in cases *Verein KlimaSeniorinnen Schweiz and Other v. Switzerland*,[61] *Duarte Agostinho and al. v. Portugal and 32 other States*,[62] and *Carême v. France*,[63] allege that States violate inter alia their right to privacy and family life by failing to take appropriate and sufficient actions to address climate change (for further details on each climate-related case before the ECtHR, see: Annexe III on Climate-related cases). All three cases have been relinquished to the Grand Chamber of the Court, demonstrating the high importance and the potential for landmark rulings.



[56] ECtHR, 21 February 1990, *Powell and Rayner v. the United Kingdom*, app. no. 9310/81, § 40. See also: ECtHR, Gr. ch., *Hatton and others v. the United Kingdom*, 8 July 2003, app. no. 36022/97; ECtHR, inadmissibility decision, *Frankowski and others v. Poland*, 20 September 2011, app. no. 25002/09.

[57] ECtHR, *Powell and Rayner v. United Kingdom*, supra.

[58] ECtHR, 9 December 1994, *López Ostra v. Spain*, app. no. 16798/90.

[59] ECtHR, June 9, 2005, *Fadejeva v. Russia*, app. no. 55723/00; ECtHR, 26 October 2006, *Lediayeva and others v. Russia*, app. no. 53157/99.

[60] Court EDH, 2 November 2006, *Giacomelli v. Italy*, app. no. 59909/00.

[61] App. no 53600/20.

[62] App. no 39371/20.

[63] App. no 7189/21.

d.Right to information

International instrument	Article	Provision
UDHR	19	“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”
ICCPR	19	1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
Paris Agreement	12	“Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement”.

The right to information in the context of climate change implies the right of all persons “to seek, receive and impart information”. In the context of climate change and environmental issues, the right to information appears to be crucial. This right puts onus on State authorities to gather, update and disseminate information relating to climate change and all risks that it implies for humans and the environment.

The other side of that same coin stipulates that the public, including in particular affected groups, advocates, and research institutes, have a right to seek and receive such information. This right might be subjected to some limitations from national authorities as some information related to climate change may not be shared to serve legitimate aims necessary in a democratic society. However, considering the particular importance of public information and transparency in designing national climate plans, such limitations to the access to information should be kept to a minimum and broad accessibility and availability of data should be a priority.

Examples of good practice:

1. The Philippines

The Philippines adopted a range of measures to enhance the right to information. This right is guaranteed by Article 3 of the Philippines' Constitution stating that "the right of the people to information of matters of public concern shall be recognized".[64]

- According to Section 9 of the Climate Change Act of 2009, the Philippines Climate Change Commission is in charge of spreading information about climate change, local vulnerabilities and risks, relevant laws, protocols, and measures focused on mitigation and adaptation to the negative effects of climate change.
- The Philippines' Department of Environment and Natural Resources is responsible for setting up and maintaining the "climate change information management system and network, including on climate change risks, activities and investments, in collaboration with other concerned national government agencies and institutions".[65]
- Provincial governments oversee providing "technical assistance, enforcement and information management in support of municipal and city climate change action plans".[66]
- Integration of environmental education into all school curricula according to the Enhanced Basic Education Act of 2013. For example, the integration of Disaster Risk Reduction and Management (DRRM) and climate change concepts have been integrated from "kinder to junior high school subject areas such Health, Science, Araling Panlipunan, and Edukasyon sa Pagpapakatao".[67]
- The Department of Education organised a climate change advocacy show on 19 November 2019 to engage families, communities, youth, and other stakeholders to spread the information on climate change through art.[68]
- Department of Education, Commission on Higher Education oversees designing the capacity-building programs (training, seminars, workshops on environmental education, development, and production on environmental education).[69]

2. Bangladesh

Bangladesh introduced several national policies on climate change, gender, and labour based on the Labour Law reform of 2013, the Bangladesh Climate Change and Gender Action Plan, and the 7th Five-Year Plan FY2016-FY2020. More specifically, Bangladesh adopted several measures aiming to ensure women's resilience and reduce their vulnerability:

[64] Magalang A.A., Good Practices and Lessons Learned from Enhancing Public Access to Information on Climate Change in The Philippines. Available online:

https://unfccc.int/files/cooperation_and_support/education_and_outreach/application/pdf/2_philippines_magalang_s.pdf

[65] Ibidem.

[66] Ibidem.

[67] See the site of the Department of Education of the Republic of the Philippines: <https://www.deped.gov.ph/climate-change-education/cce-in-the-philippines/>

[68] See the site of the Department of Education of the Republic of the Philippines: <https://www.deped.gov.ph/2019/12/06/deped-learners-showcase-visions-on-climate-change/>

[69] For more measures taken to ensure the right to information, see the study provided by the national authorities of the Philippines, ibidem.

- Organize training on how to recover and rebuild from disasters and prolonged floods, in collaboration with NGOs (the national Fair-Trade network ECOTA and World Fair Trade Organization Asia).[70]
- Increase women's access to information, communication, and technology (e.g., mobile and community radio).[71] The indicator of the success of this programme was the number of "women in the community using mobile phones and part of community radio network".[72]

e. Right to peaceful assembly:

International instrument	Article	Provision
UDHR	20	"Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association"
ICCPR	21	"The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others"

The right to peaceful assembly and association is crucial to advancing climate justice, as noted by the Special Rapporteur on the rights to freedom of peaceful assembly and association Clément Nyaletsossi Voule.[73] In its report, the Special Rapporteur emphasized the importance of the involvement of various communities, indigenous peoples, environmental human rights defenders, trade unions, and social movements in advancing climate justice. This relates to the HRBA aspect of participation in the previous Chapter, which, as explained there, is crucial for effective and sustainable policy outcomes.

Furthermore, the Special Rapporteur recognized that "the failure by Governments and other key actors to address the unfolding climate crisis has spurred a global social movement in recent years". The exercise of this right is often under threat. The Special Rapporteur noted that "restrictions, attacks, and failure to protect the environment and its defenders have been extensively documented".[74] The implementation on the national level of the right to peaceful assembly of various communities concerned by climate change appears to be crucial as it ensures the common exchange of ideas and knowledge and their collective manifestation.

[73] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 23 July 2021, A/76/222.

[74] Ibidem.

Examples of good practice:

1. Australia

There are several examples of good practices of climate justice activism in Australia, for instance the creation of movements engaged in digital activism and non-violent protest actions against the insufficient climate actions taken by the Australian government. Several are led by youth, such as School Strike 4 Climate, the Australian Youth Climate Coalition, and Seed, a movement of Aboriginal and Torres Strait Islander young people.[75]

2. The Philippines

In the Philippines, unions have played a crucial role in advancing just transition to clean energy. The coalition of various organizations and foundations created by Move as One pushed for a transition to clean energy vehicles with an aim to create a safe, inclusive, and humane public transportation system in the Philippines.[76]

3. Uganda

An insightful example can be drawn from solo demonstrations in front of the national Parliament taken by the young climate activist Vanessa Nakate in Uganda to raise awareness about climate change. Vanessa Nakate's commitment to raising awareness about climate change led to the creation of a climate movement "Rise Up Movement" that brings together African communities focused on climate justice and environmental protection[77] and organises various peaceful manifestations leading to raising awareness.[78]

[75] Amnesty International, Report to the 76th Session of the General Assembly. Submission to the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, 2021. Available online: <https://www.amnesty.org/en/wp-content/uploads/2021/07/ASA1242232021ENGLISH.pdf>

[76] Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 23 July 2021, A/76/222, p. 5. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/203/78/PDF/N2120378.pdf?OpenElement>

[77] See the source: <https://www.un.org/youthenvoy/vanessa-nakate/>

[78] See the site: <https://www.riseupmovementafrica.org/post/global-climate-strike>

f. Non-discrimination:

International instrument	Article	Provision
UDHR	20	"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination"
ICCPR	2	"Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"
	3	"The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant"
	26	"All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"
ICESCR	2 (2)	"2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"

Derived from the general principle of the equal dignity of all human beings enshrined in Article 1 of the UDHR, the principle of non-discrimination implies that States have an obligation to ensure that climate-related measures must be implemented without any discrimination. The grounds for non-discrimination are listed in relevant provisions of the UDHR, ICCPR, and ICESCR.

The principle of non-discrimination entails two sorts of obligations for States: the first one is to not discriminate on a ground listed in the relevant provision (race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth, or another status); and the second one is to provide additional protection to groups exposed to the discrimination, such as women, senior persons, children, persons with disabilities, indigenous peoples, minorities, LGBTQI+ persons. The objective of the latter part is to accomplish substantive equality or equity in the outcomes of laws and policies.

Example of good practice:

Non-discrimination is particularly important to address gender-related stereotypes and assist in fundamental changes in the perception of women's roles. The adoption of gender and climate change action plans is an example of a good practice that aims to redress the lack of gender-responsive policies. This type of plan has been adopted by Costa Rica, Cuba, the Dominican Republic, Haiti, Panama, and Peru.[79] Similar gender mainstreaming strategies have been adopted by Jamaica, Pakistan, the Marshall Islands, Viet Nam, and Nepal.[80]

Lao People's Democratic Republic could also be cited as an example of a country aiming to adopt gender mainstreaming in its national laws and policies. For instance, the National Plan on Gender Equality (NAPGE) for 2021-2025 focuses on the promotion of gender equality, the improvement of women's resilience to disasters, and increasing their participation in climate change and disaster risk reduction.[81] Among measures ensuring gender equality could be highlighted: "public awareness campaigns in communities to eradicate harmful traditional practices" discriminatory for women, "conducting awareness raising among National Assembly members, and promoting gender equality by introducing positive measures across a broad range of activities including quotas for women in leadership roles in climate change, emergency response, and disaster risk reduction".[82]

[79] Aguilar Revelo L., "Gender equality in the midst of climate change: what can the region's machineries for the advancement of women do?", Gender Affairs series, No. 159 (LC/TS.2021/79), Santiago, Economic Commission for Latin America and the Caribbean (ECLAC), 2021, p. 23.

[80] WEDO and Siegele L., BRIEF: Gender Equality and Women's Empowerment in Updated and New Nationally Determined Contributions (NDCs), December 2020. Available online: https://wedo.org/wp-content/uploads/2020/12/GenderNDCs_FINAL_Dec2020.pdf

[81] Asian Development Bank, Women's Resilience in the Lao People's Democratic Republic. How laws and policies promote gender equality in climate change and disaster risk management, June 2022, p. 15. Available online: <https://reliefweb.int/report/lao-peoples-democratic-republic/womens-resilience-lao-peoples-democratic-republic-how-laws-and-policies-promote-gender-equality-climate-change-and-disaster-risk-management-june-2022>. See also: <https://napglobalnetwork.org/2022/06/gender-responsive-climate-adaptation-planning-report/> for other examples of mainstreaming gender in countries' NAPs.

[82] Ibidem.

2. Procedural rights

a.Right to participation

International instrument	Article	Provision
UDHR	21	“Everyone has the right to take part in the government of his country, directly or through freely chosen representatives”
ICCPR	25	“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: a) To take part in the conduct of public affairs, directly or through freely chosen representatives”.
UNFCCC	6	In carrying out their commitments under Article 4, paragraph 1(i), the Parties shall: (a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities: (iii) Public participation in addressing climate change and its effects and developing adequate responses;”
Paris Agreement	Pre- amble 6 (8) 12	“Affirming the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement,” “Parties recognize the importance of integrated, holistic and balanced non-market approaches being available to Parties to assist in the implementation of their nationally determined contributions, in the context of sustainable development and poverty eradication, in a coordinated and effective manner, including through, inter alia, mitigation, adaptation, finance, technology transfer and capacity- building, as appropriate. These approaches shall aim to: (b) Enhance public and private sector participation in the implementation of nationally determined contributions;” “Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement”

While the ICCPR enshrines only the right to participate in politics, the UNFCCC and the Paris Agreement oblige State Parties to organize public participation when preparing their Nationally Determined Contributions (NDCs).

In Resolution 67/210 (2013), the General Assembly of the United Nations recognizes the importance of the right to participation in addressing the effects of climate change by underlining the “need to engage a broad range of stakeholders at the global, regional, national and local levels, including national, subnational and local governments, private businesses and civil society, and including youth and persons with disabilities, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change”. Women and indigenous people are often excluded from decision-making related to climate action. The lack of participation of those vulnerable groups increases the existing inequalities[83] and has negative consequences on the rights of both groups.

For example, in his report to the General Assembly, the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People James Anaya emphasized that indigenous people are affected the most by climate change justifying their participation in the decision-making related to climate change on national and international levels.[84]

Furthermore, environmental defenders are vital to the preservation of the environment, yet are under threat in many countries around the world. Under article 3 (8) of the Aarhus Convention, Parties shall ensure that persons exercising their rights in conformity with the provisions of the Convention shall not be penalized, persecuted or harassed in any way for their involvement.[85] However, Parties, non-governmental organizations (NGOs), and other stakeholders have reported numerous cases in which environmental defenders have experienced surveillance, heavy fines, dismissal from employment, threats and intimidation, criminalization, detention, violence, and even murder.[86]

Paragraph 7 of the Cancun Agreements and decision 36/CP.7 on Improving the participation of women in the representation of Parties in bodies established under the UNFCCC and the Kyoto Protocol[87] recognize the importance of gender equality and women’s participation.[88]

[83] See on women’s participation in decision-making processes related to climate change: Human Rights Council, Analytical study on gender-responsive climate action for the full and effective enjoyment of the rights of women. Report of the OHCHR, 1 May 2019, p. 9. On the participation of indigenous peoples in climate-related decision-making, see: ILO, Indigenous peoples and climate change. From victims to change agents through decent work, 2017. Available online: https://www.ilo.org/global/topics/indigenous-tribal/WCMS_551189/lang--en/index.htm

[84] J.S. Anaya, Special Rapporteur on Human Rights of Indigenous Peoples, Report of the the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People (2009). Available online: <https://digitallibrary.un.org/record/663918?ln=en>

[85] The Aarhus Convention is created to empower the role of citizens and civil society organisations in environmental matters and is founded on the principles of participative democracy.

The Aarhus Convention establishes a number of rights to the individuals and civil society organizations with regard to the environment. The Parties to the Convention are required to make the necessary provisions so that public authorities, at a national, regional or local level, will contribute to these rights to become effective. <https://aarhus.osce.org/about/aarhus-convention>

[86] UN Economic Commission for Europe, AC/WGP-24/Inf.16. Available online: https://unece.org/fileadmin/DAM/env/pp/wgp/WGP_24/Inf.16_Situation_of_environmental_defenders_in_Parties_to_the_Convention.pdf

[87] Decision 36/CP.7, Improving the Participation of women in the representation of Parties in bodies established under the UNFCCC and the Kyoto Protocol, see:

https://unfccc.int/files/bodies/election_and_membership/application/pdf/decision_36_cp7.pdf

[88] Cancun Agreements are a set of significant decisions by the international community to address the long-term challenge of climate change collectively and comprehensively over time, and to take concrete action immediately to speed up the global response to it. <https://unfccc.int/process/conferences/the-big-picture/milestones/the-cancun-agreements>

Despite the emphasis on women's leadership in climate change policymaking, the effective participation in national delegations of Parties to the UNFCCC is still lacking.[89] A slow progress should however be noted: 38 percent of women's participation in 2021 contrary to 30 percent in 2009.[90]

Examples of good practice:

1. Cambodia

The Forestry Law, the Protected Area Law, and the National Forest Programme (2010-2029) stress the need to involve local populations/communities and women in forest management and protection. However, the lack of implementation measures weakens those national provisions.[91]

2. Mali

The protection of environmental human rights defenders is an important dimension of public participation. For example, in 2018 Mali adopted a law protecting human rights and environmental defenders. Same laws have been adopted by Burkina Faso and Côte d'Ivoire.[92]

b. Right to an effective remedy:

International instrument	Article	Provision
UDHR	8	"Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law"
ICCPR	2 (3)	3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity; (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy; (c) To ensure that the competent authorities shall enforce such remedies when granted

[89] CoP, Gender composition. Report by the secretariat, 20 August 2021. Available online: https://unfccc.int/sites/default/files/resource/cp2021_04E.pdf

[90] WEDO, Women's Participation in the UNFCCC: 2022 Report. Available online: <https://wedo.org/womens-participation-in-the-unfccc-2022-report/>

[91] UN Women, Climate change, gender equality and human rights in Asia, 2020, p. 55. Available online: https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/02/ap-HRCC-report_online-compressed.pdf

[92] UNEP, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: good practices, p. 16. Available online: <https://wedocs.unep.org/bitstream/handle/20.500.11822/32450/RHE.pdf>

The right to an effective remedy, including access to justice, entails that every person is entitled to seek effective remedy on the national level if one's human rights have been breached. Effective remedy can be obtained through recourse to courts or other institutions that have a mandate to enforce their judgments or decisions. This right is crucial as, without access to a fair trial exercised by independent and impartial courts, enjoyment of human rights and freedoms cannot become a reality.

The right to an effective remedy covers the human rights violations generated by environmental harms and offers aggrieved parties the right to access legal remedies (administrative and/or judicial). Victims of environmental harm may obtain just satisfaction with their claims, especially via compensation. Climate-related cases present a specificity as climate change affects the global poor and the most vulnerable groups of people. As a result, these groups of people might be unaware of the available legal remedies to seek redress in case of climate-related harms. Moreover, the costs related to the legal representation could be a refrain from the exercise of the right to an effective remedy.

Examples of good practice:

There is an ever-increasing body of global case law on the enforcement of human rights protection in the context of climate change and environmental harm. See the table on climate litigation (Annexe III).

In addition to case law produced by national, regional, and international courts, there are also examples of alternative dispute resolution (ADR). As noted in the previous Chapter in the context of accountability, the issue with ADR is that the outcomes of conciliation or mediation procedures are not necessarily legally binding, and the resulting lack of enforceability makes the effectiveness of such remedies problematic at best. Nevertheless, there are some good practices of ADR:

1. Kenya

Kenya's Environment and Land Court Act, 2011 provides for the jurisdiction of the Environment and Land Court the power to hear and determine disputes relating to climate issues. Also, worth pointing out is the recognition of alternative means of dispute resolution and even affirming that where an alternative dispute resolution mechanism is a condition precedent to any proceedings before the Court, the Court is mandated to stay proceedings until such condition is fulfilled. While it is to be acknowledged that the judges appointed to head environment and land courts are appointed based on having relevant knowledge in the area, it must also be acknowledged that they may not always be well versed with all matters that come before them. It is during such times, either on the court's own motion, with the agreement of or at the request of the parties, that the court may consider any other appropriate means of alternative dispute resolution including arbitration, especially in respect of technical issues relating to climate change disputes.[93]

[93] Muigua K., "Challenges to Arbitration of Climate Change Disputes in Africa", The Lawyer: Africa (14 June 2022) <https://thelawyer.africa/2022/06/14/challenges-to-arbitration-of-climate-change-disputes/>

2. Indonesia

Pollution from the Palur Raya (a food additive company) was having a severe impact on the environment and the life of residents in the village of Ngringo. Various methods were used to resolve the dispute, including negotiation, community organisation, mediation, and an independent investigation by party-appointed experts. The Dukuh Tapak community had, for years, conveyed complaints to their village chief, the Sub-district Head, The Semarang district government officials, and respective industries about the pollution of the Tapak. Similar to the Palur Raya dispute, various methods were used in an attempt to bring a resolution to the dispute, including negotiation, community organisation, and mediation. The outcome of the mediation was 'partially successful' with some environmental and community development undertaken and some compensation given to the Tapak community.[94]

3. The USA

There has been a significant increase in the use of ADR in the US in domestic environmental conflict. The US Congress under President Clinton passed the Environmental Policy and Conflict Resolution Act of 1998 creating the United States Institute for Environmental Conflict Resolution headquartered in Arizona which administers the multimillion-dollar Environmental Dispute Resolution Fund.[95]

The United States Environmental Protection Agency (EPA) uses alternative dispute resolution approaches to help community members decide if non-adversarial conflict resolution is a good choice for dealing with their environmental concerns or disputes. EPA has for example supported community dialogues about environmental threats to children's health. The goal was to empower communities 1) to evaluate their own local health issues, 2) to set goals to protect children, and 3) to develop action plans to deal with the identified problems. The dialogues were collaborative efforts that brought together a wide and representative cross-section of community members. In some cases, EPA provided the facilitation. The participants did the hard work of grappling with the many and varied potential health concerns. The sessions were often difficult because of different perspectives, needs, and values. Yet the common interest in giving kids a safe environment in which to grow helped all the groups stay on track to develop community-specific programs for working to eliminate the most serious situations.[96]



[94] Lockheart D. and Santos C., "Alternative Dispute Resolution in Environmental Disputes", Australian Dispute Center, https://disputescentre.com.au/alternative-dispute-resolution-in-environmental-disputes/#_ftn15

[95] Simokat C., "Environmental Mediation Clauses in International Legal Mechanisms", Mediate.com (31 January 2008) <https://www.mediate.com/environmental-mediation-clauses-in-international-legal-mechanisms/>

[96] The United States Environmental Protection Agency, Resource Guide: Resolving Environmental Conflicts in Communities (May 2000) <https://www.epa.gov/sites/default/files/2015-09/documents/resguide.pdf>

B. SOCIAL, ECONOMIC AND CULTURAL RIGHTS

1. Right to health:

International instrument	Article	Provision
UDHR	25	“1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. 2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection”.
ICESCR	12	“1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness”

The Human Rights Council and the IPCC recognized several times the impacts of climate change on the right to health.[97] In addition, the analytical study on the relationship between climate change and the human right of everyone to enjoyment of the highest attainable standard of physical and mental health prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) explores the impacts of climate change on the right to health.[98]

[97] See, e.g., the Resolution 29/15 of July 2015. IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers, 2022, p. 10. Available online: https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf

[98] OHCHR, Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 6 May 2016. Available online: <https://digitallibrary.un.org/record/841798/?ln=fr#record-files-collapse-header>

Relying on the IPCC reports, the OHCHR emphasized that human health is sensitive to various shifts in weather patterns and other aspects of climate change. OHCHR highlighted that direct effects on health occur “due to changes in temperature and precipitation and occurrence of heat waves, floods, droughts, and fires”, while indirectly, “health may be damaged by ecological disruptions brought on by climate change (crop failures, shifting patterns of disease vectors), or social responses to climate change (such as displacement of populations following prolonged drought)”.^[99]

According to the IPCC, low-income countries^[100] and vulnerable groups (women, children, elderly, and indigenous people) are exposed the most to observe the increase in ill-health. WHO provided estimations according to which between 2030 and 2050, the adverse consequences of climate change on health, such as malnutrition, malaria, diarrhea, and heat stress, would cause approximately 250,000 deaths per year, in the absence of adaptation actions.^[101] Moreover, the recent Sixth Assessment Report of the IPCC emphasized that climate change seriously impacts physical and mental health causing anxiety and stress.^[102] The IPCC has also highlighted the increase in morbidity caused by heat waves, water-borne diseases, and climate-sensitive cardiovascular and respiratory distress due to exposure to “wildfire smoke, atmospheric dust, and aeroallergens”.^[103]

The adverse effects of climate change have a direct impact on the fulfilment of the right to health as frequent and intense weather events impact human health and could destroy essential health infrastructure and thus undermine access to care. For instance, natural disasters could destruct roads or vehicles, making medical facilities difficult or impossible to reach.

The ICESCR General Comment 14 on the right to health recommends adopting AAAQ-framework^[104] to ensure the right to health:

- Availability of essential medicines, vaccines, and other goods, facilities, and infrastructures (provide cool spaces, fans, air-con units, and sufficient electricity supply; prepare emergency food stocks, water stocks, medicines, and emergency services in case of natural disasters). States must ensure access to “disaster relief and humanitarian assistance” for victims of disasters.
- Accessibility of medical services, and goods. With four principles to respect: principles of non-discrimination of vulnerable groups, physical accessibility, economic accessibility (affordable health), and information accessibility.
- Acceptability – health facilities, goods, and services must be culturally acceptable and respectful of medical ethics.
- Good quality –scientifically and medically appropriate and of good quality (skilled medical personnel, safe and potable water, adequate sanitation, scientifically approved and unexpired drugs, and hospital equipment)

[99] Ibidem, p. 4.

[100] IPCC, AR5, p. 15.

[101] Ibidem. See also: IPCC, Working Group II contribution to the Sixth Assessment Report of the IPCC, Climate Change 2022. Impacts, Adaptation and Vulnerability. Summary for Policymakers, 2022, p. SPM-15.

[102] Ibidem.

[103] Ibidem, p. SPM-10.

[104] For more information on AAAQ frameworks on economic, social and cultural rights, see: “The Availability, Accessibility, Acceptability and Quality (AAAQ) Toolbox”, The Danish Institute for Human Rights. Available online: https://humanrightseducation.dk/HRBA_Training_Package/HRBA_in_practice/AAAQ%20Toolbox%20concept%20note%20brief.pdf

Examples of good practice:

Advanced air quality control regimes reducing the impact of air pollution on health are regarded as good practices ensuring the right to health. The Dominican Republic, France, and the Philippines recognize in their national law the right to breathe clean air, and in India and Pakistan, courts have considered that the right to breathe clean air is constitutionally protected as it is an integrated part of the right to life and health.[105]

Measures recommended by United Nations Environmental Programme (UNEP) for air quality include clean cooking and heating by using clean fuels; use of renewable energy sources for power generation (wind, solar, and hydropower); energy efficiency for households; energy efficiency standards for the industry; electric vehicles; improve public transport (encourage a shift from private passenger vehicles to public transport). See also developments under the right to life.

2. Right to education

International instrument	Article	Provision
UDHR	26	“1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit (...)”
ICESCR	13	“1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace”.
Convention on the Rights of the Child	29	“the education of the child shall be directed to [...] the development of respect for the natural environment”

[105] See: The Dominican Republic, the General Law on the Environment and Natural Resources, 2000; Environmental Code of France; Philippines Clean Air Act. For further reading on India and Pakistan, see: Z. U. Ranjha, "Protecting Environment through Judicial Activism in Pakistan and India", in The Asian Yearbook of Human Rights and Humanitarian Law. Available online: https://doi.org/10.1163/9789004466180_018

The interference in the right to education resulting from climate change could be direct or indirect. The right to education is breached when schools are unavailable to receive children for educational purposes. Thus, the direct interference would imply the destruction of school infrastructure and various educational facilities by hazards such as flooding, landslides, and cyclones. On other hand, extreme weather events directly undermine food insecurity, create limited access to safe drinking water and sanitation, and increase diseases such as malaria and diarrheal diseases. Those weather-related events influence their turn the right to education as they lead to absenteeism and withdrawal of children from schools. For girls in particular, a preliminary halt to their education also increases their vulnerability to early pregnancy, increased vulnerability to gender-based violence and less economic independence.[106]

Example of good practice:

UNESCO provided a study on “The impact of climate displacement on the right to education”[107] which describes a relocation plan in case of sudden-onset adverse effects of climate change that was adopted in Fiji. This measure allows to anticipate risks and ensures the right to education in crisis situations. The planned relocation should adopt the human rights-based approach and integrate considerations ensuring the right to education. National authorities can follow the guidance provided by the Comprehensive School Safety Global Framework[108] to prepare for and respond to natural disasters.

3. Rights to housing

International instrument	Article	Provision
UDHR	25	“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”
ICESCR	11	“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”

[106] SIDA, Gender perspectives on causes and effects of school dropouts, 2016 (authored by Dr. Gita Subrahmanyam, London School of Economics). Available online: <https://cdn.sida.se/publications/files/sida62010en-gender-perspectives-on-causes-and-effects-of-school-dropouts.pdf>.

[107] UNESCO, The impact of climate displacement on the right to education, 2020. Available online: <https://unesdoc.unesco.org/ark:/48223/pf0000374966>

[108] UN Office for Disaster Risk Reduction, Comprehensive school safety, 2017. Available online: <https://www.undrr.org/publication/comprehensive-school-safety>

ICESCR General Comment No. 4 of the on the right to adequate housing highlights that “the human rights to adequate housing (...) is of central importance for the enjoyment of all economic, social and cultural rights”.[109]

Climate change undoubtedly has direct adverse effects on the right to housing. Extreme weather events destroy people’s homes. Moreover, slow-onset events, such as drought, erosion, sea-level rise, and flooding transform territories into inhabitable and force indirectly people to leave their houses. Climate-related disasters together with the limited access to livelihoods and the degradation of socio-economic conditions influence people’s decision to leave their houses. Each year, climate-related disasters cause the displacement of more than 20 million people.[110] In 2020, approximately 30 million people have been displaced due to weather-related disasters. [111]

Example of good practice:

The early warning systems put into place by national authorities and provide support for the immediate response to an imminent disaster helps to reduce loss and damages. For example, Peru adopted a community-alert system for disaster prevention in two neighbourhoods in Lima as a means of adaptation measure in poor urban neighbourhoods. A group of leaders identified as “community watchmen/women” are in charge of managing the disaster risk (“roof and road reinforcements, the community purchase of fire extinguishers; the insulation of exposed electricity cables to prevent fires”).[112]



[109] United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 4, New York: United Nations, 1991, Art. 1.

[110] OXFAM Media Briefing, Forced from Home. Climate-fuelled displacement, 2 December 2019. Available online: <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/620914/mb-climate-displacement-cop25-021219-en.pdf>

[111] Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement, 2021. Available online: <https://www.internal-displacement.org/global-report/grid2021/>

[112] MISEREOR and GI-ESCR, Local struggles for housing rights in the context of climate change, urbanization and environmental degradation, 2020, p. 23. Available online: https://www.misereor.org/fileadmin/user_upload_misereororg/publication/en/climatechange_enery/report_local-struggles-for-housing-rights.pdf

4. Right to food

International instrument	Article	Provision
UDHR	25	“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”
ICESCR	11	“1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent” 2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed (...)”

Climate change directly undermines the right to food as extreme weather patterns (floods and unpredictable rain patterns) and slow-onset events (droughts) lead to food insecurity. Countries reliant on rainfed agriculture are exposed the most to food insecurity disrupting the global food supply chain. The salinization of rivers and water in coastal areas resulting from the rise in sea levels and land subsidence also leads to shortages of drinking water, changes in river flows, a decrease in water quality, and important changes in the aquatic ecosystems. For example, river, soil, and groundwater salinization in Bangladesh leads to a yield decline of 15.6 percent of high-yielding-variety rice and shortages of drinking water.[113] Moreover, oceans’ acidification and warming will lead to a decrease in fish stocks.

The State of Food Security and Nutrition 2018 report, prepared by Food and Agriculture Organization (FAO)[114] and cited by the IPCC,[115] provided the estimations of 821 million undernourished people. Moreover, it has been emphasized that in 2017, approximately 50.5 million children under five were wasted (low weight-for-height). The report further highlighted that the level of undernutrition has particularly deteriorated in regions such as Sub-Saharan Africa, South-Eastern Asia and Western Asia, and recently Latin America.

[113] See the study provided by the World Bank on the salinity intrusion:

<https://www.worldbank.org/en/news/feature/2015/02/17/salinity-intrusion-in-changing-climate-scenario-will-hit-coastal-bangladesh-hard>

[114] FAO, 2018a: The Future of Food and Agriculture: Alternative Pathways to 2050. Food and Agriculture Organization of the UN, Rome, Italy, 228 p.

[115] Mbow C., Rosenzweig C., Barioni L.G., Benton T.G., Herrero M., Krishnapillai M., Liwenga E., Pradhan P., Rivera-Ferre M.G., Sapkota T., Tubiello F.N., Xu Y., 2019: Food Security. In: Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems [P.R. Shukla, J. Skea, E. Calvo Buendia, V. Masson-Delmotte, H.-O. Pörtner, D.C. Roberts, P. Zhai, R. Slade, S. Connors, R. van Diemen, M. Ferrat, E. Haughey, S. Luz, S. Neogi, M. Pathak, J. Petzold, J. Portugal Pereira, P. Vyas, E. Huntley, K. Kissick, M. Belkacemi, J. Malley, (eds.)]. In press (2022).

The IPCC has emphasized that the increase in global average temperature to 2°C would put low-income consumers at risk “with models projecting increases of 1-183 million additional people at risk of hunger”.[116] People in vulnerable situations would suffer the most from food insecurity. For example, “about two-thirds of the female labour force in developing countries, and more than 90 percent in African countries, engaged in agricultural work, the threats to loss of harvests, often the sole source of food and income, have severe implications for many women in rural areas”.[117] Food insecurity created by climate change has been recognized by the joint study performed by the UN and World Bank as one of the factors that exacerbate risks of conflict.[118]

Examples of good practice:

According to FAO, building resilience to climate change and ensuring global food security will demand “actions at multiple scales, in various dimensions, ecological, technical, economic and social, involving various categories of actors and enabling governance environments”.[119]

Moreover, FAO stated that social protection plays a crucial role in improving access to food “by providing direct income support to households with an immediate impact on food security and poverty, but also by supporting farmers to overcome liquidity constraints, enhance human capital and stimulate local economic employment”.[120]

Agroecological farming is a way to improve livelihoods for small-scale farmers, and those living in poverty as it demands limited costs. Agroecology “improves air, soil, surface water, and groundwater quality is less energy intensive, reduces emissions of greenhouse gases and enhances carbon sinks”.[121] Countries adopting agroecology policies: Brazil, Ecuador, India, the Philippines, and Senegal. Agroecology projects in Benin, Brazil, Cuba, Egypt, Niger, India, Nepal, and the Philippines were recognized for the adoption of “outstanding practices in agroecology” by the World Future Council in 2019.[122] For example, the Philippines has been recognized for building resilient farming communities and sustainable economies in their poorest provinces through Agroecology.

[116] Ibidem, p. 439.

[117] See: Submission of the OHCHR to the 21st Conference of the Parties to the UNFCCC, pp. 16-17. Available online: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>

[118] See: UNEP, UN Women, UNDP and UNDP/PA/PSO, Gender, Climate and Security. Sustaining inclusive peace on the frontlines of climate change, 9 June 2020, p. 23. Available online: https://gender-nr-peace.org/assets/2020_GCS_Report/GCS_PolicyReport_200611.pdf See also: World Bank Group, UN, Pathways for Peace. Inclusive Approaches to Preventing Violent Conflict, 2018. Available online: <https://openknowledge.worldbank.org/handle/10986/28337>

[119] FAO, Climate change and food security: risks and responses, 2015, p. 36. Available online: <https://www.fao.org/3/i5188e/i5188E.pdf>

[120] Ibidem, p. 38.

[121] Conclusions of Special Rapporteur on the Right to Food A/ HRC/16/49, cited by the UNEP, in Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: good practices, p. 33. Available online: <https://wedocs.unep.org/bitstream/handle/20.500.11822/32450/RHE.pdf>

[122] World Future Council, “Outstanding Practices in Agroecology 2019”, see: <https://www.worldfuturecouncil.org/p/opa-2019-de/>

5. Right to culture

International instrument	Article	Provision
ICESCR	15	“1. The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (...) (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”
United Nations Declaration on the Rights of Indigenous Peoples	31	“Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge, and traditional cultural expressions...”
Paris Agreement	7 (5)	“5. Parties acknowledge that adaptation action should follow (...) should be based on and guided (..) as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate”

Climate change is a serious threat to the enjoyment of cultural rights as there is a serious risk of losing cultural identity and its survival, cultural practices, and places for cultural interactions. The potential loss of the land mass of entire countries exposes indigenous people, children, and future generations to the loss of traditional knowledge and practices. The lack of protection through the adoption of appropriate laws and policies protecting tangible and intangible cultural heritage and traditions would expose countries vulnerable to climate change to cultural loss.[123] For example, the respect of “indigenous peoples’ culture as a whole, ultimately fosters justice, social inclusion, and cohesion in the country”. [124]

[123] UNESCO, “Operational principles and modalities for safeguarding intangible cultural heritage in emergencies”. Available online: <https://ich.unesco.org/en/operational-principles-and-modalities-in-emergencies-01143>

[124] Bhattachan K.B., Sherpa P., Dolma Sherpa P., “Introduction” in Climate change and indigenous peoples. Policies and practices in Nepal, Nepal Federation of Indigenous Nationalities. Climate Change Partnership Program, 2106, p. 18. Available online: <https://lcipp.unfccc.int/about-lcipp/un-indigenous-sociocultural-regions/asia#>

Examples of good practice:

As a low-lying island, Vanuatu is extremely vulnerable to the adverse effects of climate change. To adapt to the negative effects of climate change, Vanuatu has adopted a cultural research policy focusing on the assessment of climate change impacts on cultural heritage. Vanuatu National Cultural Council's identified priorities are language documentation, documentation of indigenous histories, and cultural and historic site documentation.[125] The main purpose of the culturally sensitive policy is to protect the right to culture of Vanuatu's citizens but also the right to culture of future generations of Vanuatu. The adopted cultural research policy has a dual purpose as it helps to ensure the protection of the right to culture, but also it provides the effectiveness of policies addressing climate change.

The adopted cultural approach strengthens the national research policies as it helps to identify and assess the existing cultural heritage and to involve, in particular, indigenous scholars, students, and members of the community in the research. For instance, Tropical Cyclone Pam occurred in 2015 causing an important loss to Vanuatu's cultural sector. UNESCO has estimated that approximately USD 1.4 million is needed to recover the cultural sector, implying the rehabilitation of traditional nakamals, archives, libraries, etc.[126]

Another interesting aspect of the right to culture is to secure natural infrastructure in urban areas to build urban climate resilience and enhance the communities' cultural and social needs. For example, in Singapore the former Rail Corridor was transformed into a Green community space[127] with the active participation of local populations, seniors, children, and persons with disabilities.[128] Building a Green and sustainable community space is a cross-cutting example of ensuring the implementation of various human rights as it secures the inclusive participation of various groups of people in urban lives and provides a space for sharing information, ideas and knowledge.



[125] Hee-Eun Kim, "Changing Climate, Changing Culture: Adding the Climate Change Dimension to the Protection of Intangible Cultural Heritage", *International Journal of Cultural Property*, 2011, p. 277.

[126] See: UNESCO, "UNESCO supports recovery of Vanuatu's culture sector following Tropical Cyclone Pam", 2015. Available online: <https://www.unesco.org/en/articles/unesco-supports-recovery-vanuatus-culture-sector-following-tropical-cyclone-pam>

[127] See: https://static1.squarespace.com/static/5bbd32d6e66669016a6af7e2/t/5c757b79fa0d60597fe128bd/1551203194481/BCJ-Vol-2-Issue-1_June-2018_Rail-Corridor.pdf

[128] Massey J.M., "In Preparation for the Report by the UN Special Rapporteur in the field of cultural rights, Karima Bennouna", *University of California Davis School of Law*, p. 41. Available online:

https://www.ohchr.org/sites/default/files/Documents/Issues/CulturalRights/Call_ClimateChange/JMassey.pdf

6. Right to work

International instrument	Article	Provision
UDHR	23	“1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work”.
ICESCR	6	“1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right” 2. The steps to be taken by a State Party [...] to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”.

The impacts of climate change force workers into different employment, altering the nature of agricultural use of land and at times requiring vocational trainings. People living in geographically vulnerable areas (mostly, rural areas) to climate change suffer from losing job opportunities as their primary occupations are often crop production and animal husbandry. Extreme sudden-onset events also have a direct impact on the right to work, for instance due to forced climate-induced migration or temporary displacement. This affects households' livelihoods and often also their physical and mental wellbeing (see also the right to health).

Examples of good practice:

A project for livelihood restoration, protection, and empowerment of vulnerable communities in Sindh Province, Pakistan, delivered from 2013 to 2016 by the International Labour Organization (ILO), FAO, and UN Women[129], aimed to “restore and protect the livelihood of vulnerable rural population in Sindh Province living under tribal landholding and farming systems and who suffered from floods, droughts, and insecurity”. [130]

This exemplifies a fair and inclusive policy, creating decent work and helping households endangered by climate change impact. The project trained and provided tool kits for 600 people in trades including fashion, engineering, construction, electronics, and cooking. The outcomes were “strengthening the technical capacities and skills of 500 landless and unemployed men and women farm labourers and youth in occupations compatible with the local culture” and “increasing off-farm income generation opportunities for 100 landless, unemployed and marginalized men, women and youth to develop linkages required for small business development”. [131]

[129] See: https://www.ilo.org/islamabad/whatwedo/publications/WCMS_371565/lang--en/index.htm

[130] Ibidem.

[131] ILO, Project for the Livelihood Restoration, Protection and Sustainable Empowerment of Vulnerable Peasant Communities in Sindh Province. Available online: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-islamabad/documents/publication/wcms_371565.pdf

C. THE RIGHT TO A HEALTHY ENVIRONMENT

International instrument	Article	Provision
Stockholm Final Declaration [132]	Principle 1	“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations”
Rio de Janeiro Declaration [133]	Principle 1	“Human beings are at the centre of concerns for sustainable development. They have a right to a healthy and productive life in harmony with nature”
African Charter on Human and Peoples' Rights[134]	Preamble	“All people have the right to a satisfactory and comprehensive environment, conducive to their development”
Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights[135]	11	“1. Everyone shall have the right to live in a healthy environment and to have access to basic public services. 2. The States Parties shall promote the protection, preservation, and improvement of the environment”

[132] Principle 1 of the Stockholm Declaration adopted following the Conference which took place from 5 to 16 June 1972.

[133] Principle 1 of the Rio de Janeiro Declaration adopted at the United Nations Conference on Environment and Development. It was held from June 3 to 14, 1992 in Rio de Janeiro.

[134] The African Charter on Human and Peoples' Rights was adopted on 27 June 1981 in Nairobi, Kenya, within the framework of the Organization of African Unity.

[135] The Protocol of San Salvador was adopted on November 17, 1988, in San Salvador during the 18th Regular Session of the General Assembly.

International instrument	Article	Provision
ASEAN Human Rights Declaration	28 (f)	Every person has the right to an adequate standard of living for himself or herself and his or her family including: “the right to a safe, clean and sustainable environment”
General Assembly Resolution A/76/L.75 on the human right to a clean, healthy and sustainable environment	Principle 1	1. Recognizes the right to a clean, healthy and sustainable environment as a human right 2. Notes that the right to a clean, healthy and sustainable environment is related to other rights and existing international law 3. Affirms that the promotion of the human right to a clean, healthy, and sustainable environment requires the full implementation of the multilateral

The development of the right to a healthy environment on the international scene began with the Stockholm Declaration, adopted following the UN Conference on the Human Environment in 1972, in which the right to live in "dignity and well-being" has been recognized. During the UN Conference on Environment and Development in Rio de Janeiro (1992), the importance of principle 1 of the Stockholm Declaration is confirmed in the Rio Declaration. These two instruments, although non-binding, perfectly demonstrate the awareness of States and international organisations on environmental protection.

Following the adverse effects of climate change, the degradation of the environment, loss of biodiversity, and air and ocean pollution, have led to the progressive recognition of the right to a healthy environment either by States or international institutions. Furthermore, this right received particular attention on the international level. On 18 October 2021, the Human Rights Council adopted a landmark Resolution 48/13 on the human right to a clean, healthy and sustainable environment.[136]

The Human Rights Council acknowledges that “environmental degradation, climate change, and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy human rights, including the right to life”, and recognizes the direct interconnection between climate change and the right to clean, healthy and sustainable environment. It stated that “the impact of climate change, the unsustainable management and use of natural resources, the pollution of air, land, and water, the unsound management of chemicals and waste, the resulting loss of biodiversity and the decline in services provided by ecosystems interfere with the enjoyment of a clean, healthy and sustainable environment, and that environmental damage has negative implications, both direct and indirect, for the effective enjoyment of all human rights”.

[136] Human Rights Council, Resolution 48/13 on the human right to a clean, healthy and sustainable environment, 18 October 2021. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/289/50/PDF/G2128950.pdf?OpenElement>

Following this resolution, a group of five States – Costa Rica, Morocco, the Maldives, Switzerland, and Slovenia – proposed a resolution to the General Assembly of the UN. On 28 July 2022, the General Assembly adopted a landmark resolution 76/300 recognizing the right to a clean, healthy and sustainable environment as a human right, with 161 favourable votes and only 8 abstentions. This historic resolution lays the ground for strengthened international and national climate-related policies and actions, and enhanced accountability.

The right to a healthy environment has a wide scope of applicability as it contains both procedural and substantive dimensions. The substantive aspect of the right to a healthy environment includes a clean, healthy, safe, and non-toxic natural and man-made environment, a safe climate, access to safe water and adequate sanitation, and healthy and sustainably produced food.[137] The procedural aspect of this right covers access to information, public participation, and access to an effective remedy. Thus, the scope of the right to a healthy environment can cover a multitude of climate-related harms.

Examples of good practice:

This right has been integrated by 156 States in their constitutions, while 101 States have integrated it in national legislation.[138] For instance, Viet Nam incorporated the right to a healthy environment in its Constitution in 2013 and the Revised Law on Environmental Protection 2020. [139]

Article 43 of the Constitution states that “Everyone has the right to live in a clean environment and has the obligation to protect the environment”.

Article 63 of the Constitution declares that:

“1. The State shall adopt environmental protection policies; manage and use natural resources in an efficient and sustainable manner; conserve nature and biodiversity; and take the initiative in preventing and controlling natural disasters and responding to climate change.

2. The State shall encourage all activities for environmental protection and the development and use of new energy and renewable energy.

3. Organizations and individuals that cause environmental pollution, natural resource exhaustion or biodiversity depletion shall be strictly punished and shall rectify and compensate for damage”.

In the light of the triple planetary crisis - climate change, biodiversity loss, and air pollution -[140] the invocation of the right to a healthy environment in front of national and international courts increased considerably across the world. For example, the right to a healthy environment was a legal basis for the Nepal Supreme Court’s decision *Shrestha v. Office of the Prime Minister et al.* (25 December 2018) to order the government to adopt a new climate change law with mitigation and adaptation plans, to reduce consumption of energy from fossil fuels, ensure the transition to low carbon technologies, and to provide legal remedies to the victims of pollution and environmental degradation.

[137] Human Rights Council, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, 30 December 2019, p. 3. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/355/14/PDF/G1935514.pdf?OpenElement>

[138] UNEP, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: good practices, p. 12. Available online: <https://wedocs.unep.org/bitstream/handle/20.500.11822/32450/RHE.pdf>

[139] Article 4 § 1 of the Revised Law on Environmental Protection 2020 mentions that “environmental protection is the right, obligation and responsibility of every agency, organization, residential community, household and individual”. Article 4 § 3 of the same Law states that “environmental protection is harmoniously linked with social welfare, children’s rights, gender equality, ensuring everyone can live in a healthy environment”.

[140] See: <https://unfccc.int/blog/what-is-the-triple-planetary-crisis>



The Supreme Court of Colombia in the decision *Future Generations v. Ministry of the Environment and Others* (4 April 2018) referred to the constitutional right to a healthy environment to recognize that the Colombian Amazon, as a “subject of rights” is entitled to protection, conservation, and restoration. Recognizing that “fundamental rights of life, health, the minimum subsistence, freedom, and human dignity are substantially linked and determined by the environment and the ecosystem”, the Supreme Court ordered the national government to design and implement action plans to address deforestation in the Amazon.

Multiple States have integrated in their national legislations timelines for achieving carbon neutrality such as Viet Nam (2050) (a commitment made by the Prime Minister at COP26), New Zealand (2050), and the United Kingdom (2050).[141] Bhutan and Suriname are the only countries that are already carbon negative.[142] The European Union has adopted a package of legislative proposals “Fit for 55” aiming to reduce its net greenhouse gas emissions by at least 55 percent by 2030 compared to 1990 levels and to achieve climate neutrality in 2050.[143]

Most countries have introduced taxes to reduce environmental threats, e.g., Malaysia, and the Philippines impose water effluent charges. Some countries enforce environmental laws when polluters are not in compliance with environmental standards. For example, in 2016 Myanmar’s national authorities temporarily suspended operations at two tin mining sites and 17 factories for causing damage to livelihoods and the environment.[144] Mauritius adopted a community-based program intended to restore important ecosystems such as coral reefs and mangrove forests.[145]

[141] Ibidem.

[142] Ibidem. Wallach O., “Race to Net-Zero: Carbon Neutral Goals by Country”, Visual Capitalist (8 June 2021, updated 20 July 2022). Available online: <https://www.visualcapitalist.com/sp/race-to-net-zero-carbon-neutral-goals-by-country/>

[143] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions ‘Fit for 55’: delivering the EU’s 2030 Climate Target on the way to climate neutrality, Com/2021/550 final, 14 July 2021. Available online: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0550>

[144] See: <https://www.business-humanrights.org/en/latest-news/myanmar-two-tin-mines-suspended-for-causing-damage-to-livelihoods-the-environment/>

[145] UNEP, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment: good practices, p. 45. Available online: <https://wedocs.unep.org/bitstream/handle/20.500.11822/32450/RHE.pdf>

IV. THE DUTY BEARERS

A. GENERAL CONSIDERATIONS

Duty bearers are those who are nominated by an international human rights treaty as the responsible actor for the realization of a right guaranteed by the treaty. Under international human rights law, these duty bearers have the responsibility to respect, promote, protect and/or fulfil human rights. All three of these responsibilities carry with them obligations for action (positive obligations) such as the obligation to actively ensure access to or availability of something, and inaction (negative obligations) such as the obligation to refrain from interference.

Besides the distinction between three types of obligations, categorization in this Chapter between substantive and procedural obligations corresponds with that same distinction in the previous Chapter. Substantive obligations refer to actions that make a direct contribution to the substantive enjoyment of rights, whereas procedural obligations focus on the aspects of participation and effective remedy to enable communities and individuals to ensure and enforce the enjoyment of human rights.

International human rights treaties designate State parties as primary entities that hold duties related to the realization of human rights contained in the relevant international legal treaty. Recent developments under international human rights law recognize that businesses bear the responsibility to respect human rights and remediate through legitimate processes in case of an identified adverse human rights impact caused by their activities.[146] The first instrument, without however any legally binding effect, is the Guiding Principles on Business and Human Rights, adopted by the Human Rights Council in its Resolution 17/4.[147] The UNGP on Business and Human Rights states that businesses themselves have a responsibility to respect human rights.

Examples:

- Asia Pulp Paper Group (APP), an Indonesian private company adopted the Forest Conservation Policy in 2013.[148] According to this policy, where “new plantations are proposed, APP will respect the rights of indigenous peoples and local communities”, including recognition of customary land rights, and establishing a dialogue with stakeholders.
- On 26 May 2021, the District Court in The Hague issued a landmark judgment in the case *Milieudefensie and others v. Royal Dutch Shell*. [149] Relying on the international soft law and Dutch tort law, i.e. the UNGP on Business and Human Rights, national judges ordered Royal Dutch Shell to cut its emissions of greenhouse gases by 45 percent by 2030. This judgment is an important case law as it imposes a particular mitigation obligation on a private company.

As duty bearers of an international obligation prescribed by a human rights treaty, States, but also businesses, have obligations towards rights-holders either to not infringe rights protected in the treaty and/or to take effective measures to prevent and redress violations of human rights. In the context of human rights treaties, the duty bearers have an obligation to respect, promote, and protect or fulfil human rights. In consequence, each human right is likely to require all three obligations:

[146] See also Annexe III.

[147] Guiding Principles on Business and Human Rights, 2011. Available online: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf

[148] See : <https://sustainability-dashboard.com/people>

[149] See filing information: <http://climatecasechart.com/non-us-case/milieudefensie-et-al-v-royal-dutch-shell-plc/>

- The obligation to respect requires the States' authorities and agents to refrain from interfering with the enjoyment of a particular human right.
- The obligation to protect requires the States to protect the rights-holders against interference by third parties and to punish the perpetrators.
- The obligation to fulfil or to implement requires specific positive measures to give full realization and full effect to the particular human rights, e.g., appropriate legislative, administrative, judicial, budgetary, and all other actions allowing the full realization of a human right.

The seriousness of climate change, the intensity, and imminence of climate-induced hazards, as well as the disproportionate and far-reaching adverse effects on the full enjoyment of a wide range of human rights, influence the obligations of duty-bearers. Thus, to prevent climate-related harms, the “duty-bearers have an affirmative obligation to take effective measures to prevent and redress these climate impacts, and therefore, to mitigate climate change, and to ensure that all rights-holders have the necessary capacity to adapt to the climate crisis”.[150] It appears that the dangerous effects of climate change require positive actions from duty-bearers.

B. SUBSTANTIVE OBLIGATIONS

The distinction between substantive and procedural obligations of duty bearers corresponds to the distinction adopted under civil and political rights. Therefore, while substantive obligations of duty-bearers ensure the realization of substantive human rights, the procedural obligations of duty bearers refer to the obligation of duty bearers to organize the enforcement of substantive human rights through the effective participation of rights-holders in specific proceedings provided on the national level.

1. Obligation to adopt positive measures focused on mitigation of climate change

This obligation demands States to reduce and regulate emissions of greenhouse gases, to prevent to the greatest extent possible, the current and future negative human rights impacts of climate change. Failure to take positive measures to prevent human rights harms caused by climate change, including foreseeable long-term harms, violates this obligation.[151] A just transition to net zero pathways and a green economy should therefore integrate environmental and human rights considerations.

One example of this is the integration of renewable energy in rural and remote areas in Bangladesh, where the lack of access to electricity has an important impact on women's human rights to health and to physical integrity (e.g., clean cookstove initiatives help reduce women and girls' exposure to indoor pollution). Through electrification efforts, solar panels and lamps were installed in rural and remote villages and houses, improving their health and wellbeing.[152]

[150] See: Submission of the OHCHR to the 21st Conference of the Parties to the UNFCCC, p. 2. Available online: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>. See also: OHCHR, Frequently Asked Questions on Human Rights and Climate Change, Fact Sheet N° 38, New York and Geneva, 2021. Available online: https://www.ohchr.org/sites/default/files/2021-09/FSheet38_FAQ_HR_CC_EN_0.pdf

[151] Ibidem.

[152] UN Women, Climate change, gender equality and human rights in Asia, 2020, p. 51. Available online: https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/02/ap-HRCC-report_online-compressed.pdf

2. Obligation to provide to all rights-holders the capacity to adapt to the consequences of climate change

This obligation requires States to adopt appropriate adaptation frameworks and measures for protecting and fulfilling the rights of all people against the adverse effects of climate change. States have to pay particular attention to adopting appropriate adaptation measures to the rights of people living in vulnerable areas (e.g., small islands, riparian and low-lying coastal zones, arid regions, and the poles).[153]

“States must build adaptive capacities in vulnerable communities, including by recognizing the manner in which factors such as discrimination, and disparities in education and health affect climate vulnerability, and by devoting adequate resources to the realization of the economic, social, and cultural rights of all persons, particularly those facing the greatest risks”.[154]

As an example, National Adaptation Plans (NAPs) should follow the strategy of integrating the human rights-based approach and climate justice. The design and implementation of NAPs should respect the principles of non-discrimination of affected vulnerable groups and their participation. Measures to be taken: 1) organise a genuine consultation with populations affected by climate change; 2) timely and full disclosure of information on the proposed adaptation measures; 3) reasonable notice of proposed actions; 4) provide legal remedies for affected populations; 5) provide legal assistance.

3. Obligation of international cooperation

This obligation requires States to participate in international negotiations related to climate change to achieve the targets set in the Paris Agreement based on common but differentiated responsibilities and respective capabilities (CBDRRC). The Human Rights Council recognized in its Resolution 18/22 the necessity for international cooperation to address the global nature of climate change.[155] However, duty-bearers (States) fall short of their most important obligation – to cooperate to reduce greenhouse gas emissions to levels that will avoid massive negative effects on the full enjoyment of human rights. States must enhance their commitments to reduce GHG emissions in their Nationally Determined Contributions (NDCs).

The former UN Special Rapporteur on human rights and the environment, John Knox highlighted that: according to the UNEP, the full implementation of State’s intended nationally determined contributions would lead to emission levels in 2030 that will likely cause a global average temperature to increase of well over 2°C, and quite possibly over 3°C.[156] The synthesis report of Nationally Determined Contributions (NDCs) under the Paris Agreement of 2021 highlighted the increase of 13.7 percent in global GHG emissions in 2030 compared to 2010, whereas the IPCC estimated that the target of 1.5°C set by the Paris Agreement requires a reduction of CO2 emissions of 45 percent in 2030 or a 25 percent reduction by 2030 to limit warming to 2°C.[157] Thus, it appears that “even if they meet their current commitments, States

[153] Ibidem.

[154] Ibidem.

[155] Resolution 18/22.

[156] Press Release, Special Procedure, Climate change: UN expert welcomes historic Paris Agreement but calls on States to scale up efforts to meet the 1.5°C target, 21 April 2016. Available online: <https://www.ohchr.org/en/press-releases/2016/04/climate-change-un-expert-welcomes-historic-paris-agreement-calls-states>

[1] CoP, Nationally determined contributions under the Paris Agreement. Synthesis report by the secretariat, 17 September 2021, p. 29. Available online: https://unfccc.int/sites/default/files/resource/cma2021_08E.pdf

will not satisfy their human rights obligations”.[158]

As a global threat to humankind, climate change demands enhanced global cooperation to be addressed in an effective way. The Preamble of the UNFCCC, as well as the Human Rights Council’s resolutions 26/27 and 29/15, state that climate change has a global nature and it “calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response”. The Charter of the United Nations offers great potential to human rights to address climate change. Article 55 of the Charter requires the United Nations to promote “universal respect for, and observance of, human rights and fundamental freedoms for all”, and Article 56 precise that “all Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55”.

Thus, Article 55 interpreted in conjunction with article 56 of the Charter create the legal basis for the international cooperation of States to tackle the negative effects of climate change on the enjoyment of human rights.

4. Obligation to ensure equity in climate action

States must integrate the equity dimension in all their climate-related actions. Integrate the climate justice perspective into climate action. In particular, this obligation requires that “efforts to mitigate and adapt to the impacts of climate change should benefit people in developing countries, indigenous peoples, people in vulnerable situations, and future generations”.[159]

5. Obligation to ensure that mitigation and adaptation measures do not contribute to human rights violations

NDCs and all other climate-related measures and frameworks should integrate the human rights dimension. For example, the European Union has already integrated the human rights dimension into its NDCs. It is required by the EU’s Regulation 2018/1999 that “Member States should (...) integrate the dimensions of human rights and gender equality in their integrated national energy and climate plans and long-term strategies”.[160] It must be noted that the EU’s regulation reiterates the Preamble of the Paris Agreement, according to which Parties should, “when taking action to address climate change, respect, promote and consider their respective obligations on human rights and gender equality”.

[158] Ibidem.

[159] See: Submission of the OHCHR to the 21st Conference of the Parties to the UNFCCC, pp. 3-4. Available online: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/COP21.pdf>

[160] Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, PE/55/2018/REV/1. Available online: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2018.328.01.0001.01.ENG

C. PROCEDURAL OBLIGATIONS

1. Obligation to ensure effective remedy for human rights harms caused by climate change

The duty-bearers must provide rights-holders the effective legal remedies (judicial, administrative, or other redress mechanisms) in the situation of climate-related harm and/or environmental harm. In case of a recognition of a human rights violation, a compensation mechanism or any other form of redress should be provided.

2. Obligation to ensure public participation

States have an obligation to facilitate public participation in environmental and climate-related decision-making processes. States must ensure the effective participation of people identified by relevant legal instruments as being in vulnerable situations. As an example, electrification projects in rural and remote areas should make use of participatory and inclusive decision-making processes, to understand the public's concerns and basic needs related to household and village electrification, such as where to install solar panels or street lighting. Women's participation in decision-making processes were crucial to the success of the aforementioned electrification projects in Bangladesh.

3. Obligation to ensure access to information

This obligation requires States to assess and disclose foreseeable environmental and climate-related risks and to communicate the relevant climate-related information to the public. States must ensure the environmental and climate-related impact assessments.



PART V. CONCLUDING REMARKS AND NEXT STEPS

Throughout this paper, we have set out the nexus between climate change and human rights. As shown, the effects of climate change and environmental degradation have significant impacts on the enjoyment of a wide range of human rights protected by international treaties. At the same time, but also, therefore, human rights can be a useful entry point for climate policy and programming. The international human rights framework can be a helpful tool for the formulation of climate policies, programming, and advocacy through the application of the human rights-based approach.

In this paper, we have provided various examples of how human rights are impacted by climate-related hazards but also illustrated how a human rights-based approach can help to address these adverse impacts. Such an approach ensures that the fundamental rights and freedoms of people are at the centre of policymaking.

In conclusion, considering the obligations of actors in the context of climate actions that put human rights at the centre (Part III), there are specific next steps that should be considered by national authorities, businesses and other stakeholders:

- Recognize and implement the human right to a safe, clean, healthy, and sustainable environment, which includes a safe and stable climate;^[161]
- Hold accountable all duty-bearers for their contributions to climate change, including businesses;
- Ensure the respect of the international human rights framework by the climate-related policies and actions;
- Implement the recommendations adopted by the United Nations human rights mechanisms on human rights-based climate action;
- Ensure that climate action taken by duty-bearers benefits everyone, including those most exposed to the adverse impacts of climate change, leaving no one behind;
- Guarantee a just transition to a net zero pathways and green economy while ensuring the respect of human rights;
- Empower national human rights institutions to contribute to the climate-related policymaking and implementation of national climate commitments, laws, and policies;
- Guarantee a safe and enabling environment for communities and activists advocating for human rights and/or environmental protection;
- Ensure the effective participation of everyone, in particular members of vulnerable groups such as women, young people, elderly, indigenous people, and ethnic minorities, in climate-related decision-making processes;
- Ensure everyone the access to information and education on climate change and its negative effects, including youth;
- Guarantee everyone access to justice and effective remedy in case of climate-related harm;
- Enhance the climate resilience of individuals and communities and their capacity to adapt to the consequences of climate change;

[161] Resolution 76/300 General Assembly 28 July 2022 on the right to a healthy environment.

- Mainstream women's rights and gender equality in all climate-related policies, plans, and actions;
- Recognize and ensure indigenous peoples' rights, such as rights to traditional knowledge, lands, territories, and resources;
- Recognize that civil society which peacefully advocates for the right to a healthy environment is a fundamental partner in addressing the triple planetary crisis of climate change, biodiversity loss and pollution and to achieve sustainable development.



ANNEXE I: THE CONSOLIDATION OF THE NEXUS BETWEEN HUMAN RIGHTS AND CLIMATE CHANGE ON THE INTERNATIONAL LEVEL

Date	Institution/ Instrument	The outcome
December 2005	Decision on the inadmissibility of the petition Issued by the Inter-American Commission on Human Rights	A group of Inuit people, an indigenous people living in the Arctic, filed a petition alleging that the increased emissions of GHG generated by the United States violated their human rights by causing the rise of temperature in the Arctic that affects their lives. The applicants stressed that climate change has a negative impact on a wide range of human rights that they detain under the American Declaration of the Rights and Duties of Man and other instruments of international law, such as the right to life, right to physical integrity, right to security, right to the benefits of culture, right to property, right to the preservation of health, and a means of subsistence, right to residence, right to movement, and right to the inviolability of their home. The applicants requested the Commission to recommend the United States “adopt mandatory measures to limit its emissions of greenhouse gases and cooperate in efforts of the community nations – as expressed, for example, in activities relating to the to limit such emissions at the global level”.[162] While this petition has been dismissed by the Inter-American Commission because “the information provided does not enable (...) to determine whether the alleged facts would tend to characterize a violation of rights protected by the American Declaration”,[163] this petition has established a clear link between the adverse impacts of climate change and human rights, and raised awareness on both national and international levels.

[162] Petition to the Inter-American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States, p. 7. Available online: https://www.ciel.org/Publications/ICC_Petition_7Dec05.pdf

[163] Inadmissibility decision issued by the Inter-American Commission on Human Rights on 16 November 2006. Available online: http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2006/20061116_na_decision.pdf

Date	Institution/ Instrument	The outcome
14 November 2007	Declaration on the Human Dimension of Global Climate Change Adopted by Small Island Developing States (SIDS) in Malé, Maldives	The Malé Declaration was the first intergovernmental statement highlighting that climate change has “clear and immediate implications for the full enjoyment of human rights including inter alia the right to life, the right to take part in cultural life, the right to use and enjoy the property, the right to an adequate standard of living, the right to food, and the right to the highest attainable standard of physical and mental health”. Thus, reaffirming the UDHR and acknowledging the “immediate, fundamental and far-reaching” threat of climate change on “the environment, individuals and communities around the planet”, the representatives of the SIDS requested the Conference of the Parties (COP) of the UNFCCC to take further steps in seeking the cooperation in assessing the human rights implications of climate change together with the UN Human Rights Council and the Office of the UN High Commissioner for Human Rights (OHCHR).
28 March 2008	Resolution 7/23 on Human rights and climate change^[164] The 1st Resolution adopted by the Human Rights Council	The Human Rights Council confirmed the existence of an “immediate and far-reaching threat to people and communities around the world” of climate change and its implications for the full enjoyment of human rights of all human beings with a particular emphasis on adverse effects on vulnerable groups concentrated in high-risk areas. Making express references to the Vienna Declaration and Programme Action and to the so-called “international bill of rights”, composed of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Human Rights Council requested the OHCHR to prepare a detailed analytical study on the nexus existing between climate change and human rights.

[164] Human Rights Council, Res. 7/23, 28 March 2008, U.N. Doc. A/HRC/RES/7/23. Available online: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_23.pdf

Date	Institution/ Instrument	The outcome
15 January 2009	Annual Report on the relationship between climate change and human rights [165]	In response to the Human Rights Council's resolution 7/23, the OHCHR issued a report. Relying on reports provided by the IPCC, this report of the Office of the High Commissioner outlines the crucial aspects of the relationship between climate change and human rights. Moreover, the OHCHR presented an overall review of the effects of climate change on specific rights, such as the right to life, the right to adequate food, the right to water, the right to health, the right to adequate housing, and the right to self-determination.
25 March 2009	Resolution 10/4 on 'Human rights and climate change' [166]	Along with statements set out in resolution 7/23, the Human Rights Council highlighted the universal, indivisible, interdependent, and interrelated characteristics of human rights and the necessity of fair and equal treatment of those rights. The Human Rights Council further affirmed the role that human rights can play in addressing climate change as they "have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy, and sustainable outcomes".
7 December 2009	Joint Statement of the Special Procedure Mandate Holders of the Human Rights Council [167]	Issued right before the opening of the Copenhagen Climate Change Conference, the mandate holders urged that "adaptation or mitigation measures, such as the promotion of alternative energy sources, forest conservation or tree-planting projects and resettlement schemes must be developed in accordance with human rights norms". Moreover, the mandate holders have underlined the right to participation of affected individuals and communities in the decision-making process related to climate change.

[165] Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, 15 January 2009, A/HRC/10/61. Available online:

<https://www.ohchr.org/sites/default/files/Documents/Press/AnalyticalStudy.pdf>

[166] Human Rights Council, Res. 10/4, 25 March 2009, U.N. A/HRC/RES/10/4. Available online:

https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_10_4.pdf

[167] UN, Joint Statement of the Special Procedure Mandate Holders of the Human Rights Council on the UN Climate Change Conference, 7–18 December 2009. <https://www.ohchr.org/en/statements/2009/12/ambitious-climate-change-agreement-must-protect-human-rights-all-warn-un-experts?LangID=E&NewsID=9667>

Date	Institution/ Instrument	The outcome
10 December 2010	The Cancun Agreements [168]	The Cancun Agreements is a result of work carried out by human rights institutions of the UN on establishing the nexus between climate change and human rights. Adopted by the Conference of the Parties on the 16th session. Echoing the resolution 10/4, the Parties have agreed in that decision that they “should, in all climate change-related actions, fully respect human rights”.
17 October 2011	Resolution 18/22 [169]	The HRC acknowledges that while climate change-related adverse effects “affect individuals and communities around the world” those effects “will be felt most acutely by those segments of the population that are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability”. The HRC emphasizes the adverse climate change-related impacts on the effective enjoyment of a wide range of human rights (inter alia rights to life, adequate food, the highest attainable standard of health, adequate housing, self-determination, and safe drinking water and sanitation). The HRC stresses the need to continue “forging stronger interface and cooperation between human rights and climate change communities”. Since resolution 18/22, the HRC has adopted eight resolutions on climate change and human rights. [170]
19 April 2012	Resolution 19/10 on Human Rights and the environment	The Human Rights Council appointed John H. Knox as the first independent expert on the new mandate on human rights and the environment.

[168] Decision 1/CP.16, § 8, FCCC/CP/2010/7/Add.1, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/605/50/PDF/G1160550.pdf?OpenElement>

[169] Available online: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/A.HRC.RES.18.22.pdf>

[170] Resolution 26/27 of July 2014; Resolution 29/15 of July 2015; Resolution 32/33 of July 2016; Resolution 35/20 of July 2017; Resolution 38/4 of July 2018; Resolution 42/21 of July 2019; Resolution 44/7 of July 2020; Resolution 47/24 of July 2021.

Date	Institution/ Instrument	The outcome
30 December 2013	Mapping Report	John H. Knox provided reports “mapping statements by human rights bodies on the human obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and identifying good practices in the use of such obligations”. ^[171]
June 2014	Report of the Special rapporteur	The ‘Focus report on human rights and climate change. Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment’, in which he identifies all international human rights law instruments and all rights affected by the consequences of climate change. ^[172]
26 March 2015	Resolution 28/11	The need to clarify the interconnection between human rights obligations relating to the environment led the Human Rights Council to reappoint John H. Knox as a new Special Rapporteur. ^[173]
1 February 2016	The Report of the Special Rapporteur	The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment presented a report on the human rights obligations relating to climate change. ^[174] According to this report, States have substantive and procedural obligations relating to climate change as well as a duty to protect the most vulnerable groups of people.

[171] Knox John H., Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Mapping report, U.N. Doc. A/HRC/25/53, 30 December 2013; Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Compilation of good practices, U.N. Doc. A/HRC/28/61, 3 February 2015.

[172] Available online:

<https://www.ohchr.org/en/special-procedures/sr-environment/climate-change-reports-and-related-activities-2014-2016>

[173] Human Rights Council, Res. 28/11, U.N. Doc. A/HRC/RES/28/11, 26 March 2015.

[174] Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

Date	Institution/ Instrument	The outcome
July 2016	Resolution 32/33	The Human Rights Council specifically emphasized the necessity of integration of human rights in climate change mitigation and adaptation actions.
7 July 2017	Resolution 35/20 [175]	In 2017 the Human Rights Council adopted a human rights-based approach in its resolutions focusing on highlighting the interconnection between human rights and climate change. The Human Rights Council has chosen to dedicate each resolution to the rights of vulnerable groups of people exposed the most to climate change. Resolution 35/20 highlights the necessity to protect and promote the human rights of migrants and internationally displaced in the context of the adverse impact of climate change.[176]
July 2018	Resolution 38/4	The HRC urges all States to adopt an integrated and “gender-responsive approach to climate change adaptation and mitigation policies, consistent with the UNFCCC (...) to address efficiently the economic, cultural and social impacts and challenges that climate change represents, for the full and effective enjoyment of human rights for all, particularly to support the resilience and adaptive capacities of women and girls both in rural and urban areas to respond to the adverse impacts of climate change”. [177]

[175] Human Rights Council, Resolution 35/20, 7 July 2017. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/184/52/PDF/G1718452.pdf?OpenElement>

[176] Human Rights Council, Resolution 35/20, 7 July 2017. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/184/52/PDF/G1718452.pdf?OpenElement>

[177] Human Rights Council, Resolution 38/4, 16 July 2018. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/214/16/PDF/G1821416.pdf?OpenElement>

July 2019	Resolution 42/21	The Human Rights Council dedicates this resolution to the rights of persons with disabilities and underlines the disproportionately negative impact of climate change on those rights-holders.[178]
July 2020	Resolution 44/7	The HRC recognizes the adverse influence of climate change on the rights of older people.[179]
14 July 2021	Resolution 47/24	The HRC recognized in particular, the disproportionate negative influence of climate change on people in vulnerable situations.
4 October 2021	Resolution 48/14	The HRC voted a new Resolution aiming to establish a new mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change. During the 49th session, the HRC appointed Ian Fry as the First Special Rapporteur on the promotion and protection of human rights in the context of climate change. On 23 June 2022 Ian Fry acknowledged that “communities in vulnerable situations, including indigenous peoples, peasants, migrants, children, women, persons with disabilities and people living in small island developing States and least developed countries are disproportionately at risk from adverse impacts of climate change”.[180] The Special Rapporteur highlighted that one of the key elements of his plan to address climate change would be to investigate the state of protection of human rights of people displaced by the impacts of climate change. According to the Special Rapporteur, one of the main challenges would be to address the lack of legal status of people displaced internationally or internally by the impacts of climate change. The issue is of high importance as it implies a huge number of people. For example, in 2021 there have been 59.1 million people internally displaced across the world. Those issues have been on the agenda of the newly appointed Special Rapporteur. He acknowledged however that “much more needs to be done”.

[178] Human Rights Council, Resolution 41/21, 23 July 2019. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/223/65/PDF/G1922365.pdf?OpenElement>

[179] Human Rights Council, Resolution 44/7, 23 July 2020. Available online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/189/33/PDF/G2018933.pdf?OpenElement>

[180] OHCHR, Press Release, 23 June 2022. Available online: <https://www.ohchr.org/en/press-releases/2022/06/intolerable-tide-people-displaced-climate-change-un-expert>

Date	Institution/ Instrument	The outcome
5 July 2022	Resolution A/HRC/50/L. 10/Rev.1	This very recent resolution, while acknowledging all previous concerns related to the adverse effects of climate change on human rights, the HRC recognized the “increased frequency and intensity of both sudden-onset natural disasters and slow-onset events, and that these adversely affect the full enjoyment of all human rights”. Furthermore, this resolution was particularly focused on the negative effects of extreme climate events on the right to food as agricultural production, food security, and nutrition around the world are under particular threat.[181]

[181] Human Rights Council, Resolution 50/... (adopted without a vote), 5 July 2022. Available online:

ANNEXE II: TREATY RATIFICATIONS BY VIET NAM

International Legal Instruments	Signature	Ratification
ICCPR		24 September 1982
ICESCR		24 September 1982
CEDAW	29 July 1980	17 February 1982
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	7 November 2013	5 February 2015
International Convention on the Elimination of All Forms of Racial Discrimination		9 June 1982
Convention on the Rights of the Child	26 January 1990	28 February 1990
Convention on the Rights of Persons with Disabilities	22 October 2007	5 February 2015
UNFCCC	11 June 1992	16 November 1994
Kyoto Protocol	3 December 1998	25 September 2002
Paris Agreement	22 April 2016	3 November 2016

ANNEXE III: CLIMATE-RELATED CASE-LAW

1. Human rights used as legal grounds for the reduction of the GHG emissions

Name of a case	Date	Country	Relevant human rights	Outcome
Urgenda Foundation [182] Supreme court of the Netherlands	20 December 2019	The Netherlands	Article 2 (right to life) ECHR Article 8 (right to private and family life) ECHR	The State has a duty under Articles 2 and 8 to take appropriate measures if “a real and immediate risk to people’s lives or welfare exists and the State is aware of that risk” The State has to limit GHG emissions at least to 25% below 1990 levels by 2020
Verein Klima Seniorinnen Schweiz and other v. Switzerland [183]	Pending	ECtHR	Article 2 (right to life), Article 8 (right to private and family life)	Pending Submitted by a Swiss association for the prevention of climate change whose members are women with an average age of 73 (650 members are over 75) and four elderly women. The applicants allege that the adverse effects of climate change such as heatwaves undermine their living conditions and health. According to the applicants, the Swiss failed to fulfil its positive obligations to effectively protect their right to life and to ensure the enjoyment of their right to private and family life, including their home, read in conjunction with the principles of precaution and intergenerational fairness issued from the international environmental law. They consider that Swiss failed to adopt appropriate legislation and measures to reach the targets to tackle climate change.

[182] See: <http://climatecasechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/>

[183] App. no 53600/20.

Duarte Agostinho and al. v. Portugal and 33 other States [184]	Pending	ECtHR	Article 2 (right to life), Article 8 (right to private and family life)	Pending The applicants, Portuguese nationals aged between 10 and 23, allege that forest fires caused by global warming violate their right to life, and right to private and family life read in the light of the Paris Agreement as these fires aggravated by the hot weather have a direct negative influence on their sleep patterns, allergies and respiratory problems. Applicants stress that natural disasters and the increasing global warming cause anxiety to them and to their future families.
Carême v. France [185]	Pending	ECtHR	Article 2 (right to life), Article 8 (right to private and family life)	Pending Submitted by a former mayor of the municipality of Grande-Synthe, currently Member of the European Parliament. The applicant alleges that the failure of French authorities to take all appropriate measures to enable France to comply with the maximum levels of GHG emissions constitutes a violation of the right to life and the right to a normal private and family life.
PSB et al. v. Brazil (on Climate Fund) [186] Supreme Court	7 July 2022	Brazil	No references to specific human rights	The Paris Agreement is a human rights treaty with supranational value. The Government has a constitutional duty to make the Climate Fund's resources work for purposes of mitigating climate change.

[184] App. no 39371/20.

[185] App. no 7189/21.

[186] See the summary in English on: <http://climatecasechart.com/non-us-case/psb-et-al-v-federal-union/>

2. Cases submitted on the ground of the right to a healthy environment

Name of a case	Date	Country	Relevant human rights	Outcome
Advisory Opinion OC-23/17 requested by the Republic of Colombia	15 November 2017	Inter-American Court of Human Rights	Inter-American Convention on Human rights: Right to life, Right to personal integrity, access to information, public participation, access to justice	Right to a healthy environment is a human right Climate change and environmental degradation affect directly human rights, comforting the further applications on the ground of the right to a healthy environment regarding the climate change-related harms
Future Generations v. Ministry of the Environment and Others Supreme Court	4 April 2018	Colombia	Constitutional Right to a healthy environment	Recognizes that the “fundamental rights of life, health, the minimum subsistence, freedom, and human dignity are substantially linked and determined by the environment and the ecosystem” Recognized that the Colombian Amazon as a “subject of rights” is entitled to protection, conservation and restoration. The Government must design and implement action plans to address deforestation in the Amazon

Name of a case	Date	Country	Relevant human rights	Outcome
Shrestha v. Office of the Prime Minister et al. Supreme Court	25 December 2018	Nepal	Constitutional right to a dignified life, right to a healthy environment	The Court ordered the government: -to adopt a new climate change law with mitigation and adaptation plans; -reduce the consumption of energy based on fossil fuels and ensure the transition to the low carbon technologies -provide legal remedies to the victims of pollution and environmental degradation

3. Cases submitted against private companies

Name of a case	Date	Country	Relevant human rights	Outcome
Milieudefensie and others v. Royal Dutch Shell [187] District Court in The Hague	26 May 2021	The Netherlands	Guiding Principles on Business and Human Rights	The Court ordered to Royal Dutch Shell to cut its emissions of greenhouse gases by 45 percent by 2030.

[187] See: <http://climatecasechart.com/non-us-case/milieudefensie-et-al-v-royal-dutch-shell-plc/>

Name of a case	Date	Country	Relevant human rights	Outcome
National Human Rights Commission of Thailand	12 October 2015	Thailand	Guiding Principles on Business and Human Rights ICCPR, ICESCR, ASEAN Human Rights Declaration	No express reference to climate change impact. However, a parallel could be made between the loss of the land due to climate change adverse impacts, and the loss of the land because of the illegal forced eviction of villagers that had a severe impact on their livelihoods. Mitr Phol did not conduct its business in accordance with international commitments to human rights to which Thailand is a party. The National Human Rights Commission of Thailand issued a policy recommendation to the Council of Ministers, the Ministry of Foreign Affairs, the Ministry of Commerce, the Stock Exchange of Thailand, the Bank of Thailand (...) to “establish mechanisms or stipulate obligations in oversight of foreign investment of investors of Thai nationality to have respect for the basic principles of Human Rights, using the framework of the UNGP on Business and Human Rights”.^[188]

[188] National Human Rights Commission of Thailand, 12th October 2015, Report on Results of Consideration of the Complaint for Policy Recommendations or Proposals for a Legal Amendment, n° 1003/2558, <https://www.inclusivedevelopment.net/wp-content/uploads/2021/11/Final-Investigation-Report-of-the-Thai-National-Human-Rights-Commission-ENGLISH.pdf>

FURTHER READING

- [Causes and Effects of Climate Change | United Nations](#)
- [The Paris Agreement | UNFCCC](#)
- [OHCHR | The impacts of climate change on the effective enjoyment of human rights](#)
- [OHCHR | The impact of climate change on the rights of people in vulnerable situations](#)
- [Climate Change and Human Rights | UNEP](#)
- [Human rights are at threat from climate change, but can also provide solutions | UNEP](#)
- [Environmental Justice: Securing Our Right to a Clean, Healthy and Sustainable Environment | UNDP](#)
- [The Slow onset effects of climate change and human rights protection for cross-border migrants | ReliefWeb, OCHA](#)
- [Climate change and human rights – Can the courts fix it? | ReliefWeb, OCHA](#)



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