Using the human rights framework to protect vulnerable communities from climate change

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Summary

From severe weather events to sea level rise, climate change is causing massive disruption around the world.

While no nation or community will be spared these adverse consequences, not all nations and communities will experience these adverse consequences equally.

Historically marginalized communities, poor people and poor countries will experience these consequences disproportionally, even though their contribution to climate change is relatively small, raising justice concerns.

In the meantime, greenhouse gas emissions continue to increase, raising doubts about meeting the global commitment of limiting the temperature increase to 1.5 degrees Celsius.
Although climate change poses an unprecedented threat to the enjoyment of rights, a human rights framework offers potential solutions to victims of climate change to seek relief and hold states accountable.

Many of these victims are poor and marginalized segments of society and the human rights framework gives them a voice.
Moreover, climate action can have a positive impact on the enjoyment of rights, especially, the right to health.

In this presentation I look at how a human rights approach to climate action can improve the lives of millions of people who are forced to bear a disproportionate impact of climate change.

I discuss the role of environmental justice and human rights because the enjoyment of rights is seriously jeopardized by climate impacts.
Outline

• What we know
• IPCC report, 2021
• Impacts on people and environment
• Consequences of climate change on marginalized communities and communities disproportionately impacted – e.g. small island states, “climate refugees.”
• Role of environmental justice and human rights
• Recent Human Rights Council’s resolution on the human right to a healthy environment
• Giving a voice to vulnerable communities
• Conclusion
Climate change – what we know

• The earth is warming - temperatures have warmed about 2 degrees Fahrenheit (1.2 degrees Celsius) since the industrial revolution – this is a permanent increase in temperature
• The evidence is clear – Intergovernmental Panel on Climate Change (IPCC)
• Humans are largely responsible for recent climate change (over 95% certainty)
• Last year (2023) was the hottest year on record.
• Climate change affects everyone, but it will affect some communities and states more than others
• Climate change is already affecting millions of people worldwide
• Millions will be forced to move as a result of climate change
Some sobering facts

2008-2014, 184.4 million people displaced by sudden onset disasters – 22.5 million people displaced by weather- and climate-related hazards.

In 2023, there were 28 confirmed weather/climate disaster events with losses exceeding $1 billion each to affect United States. These events included 1 drought event, 4 flooding events, 19 severe storm events, 2 tropical cyclone events, 1 wildfire event, and 1 winter storm event.

Thus, $1 billion+ climate-related disasters every two weeks (on average) in the US alone
Global average temperature 1850-2020

Global Average Temperature 1850 - 2020

Land data prepared by Berkeley Earth and combined with ocean data adapted from the UK Hadley Centre

Global temperature anomalies relative to 1850-1900 average

Vertical lines indicate 95% confidence intervals
Major emitting countries

Greenhouse gas emissions (%)

- China: 27%
- US: 11%
- India: 6.6%
- EU-27: 6.4%
- Indonesia: 3.4%
- Russia: 3.1%
- Brazil: 2.8%
- Japan: 2.2%

Source: Rhodium Group
IPCC 6th assessment report, 2022

- Inter-governmental Panel on Climate Change (IPCC) a body of scientists worldwide that study climate science
- We cannot avoid some of the devastating impacts
- There is still a narrow window to keep the situation from worsening
- But we have locked in about 30 years of worsening climate impacts, no matter what we do
- We have emitted so much greenhouse gases that warming will continue until middle of the century, even if we drastically reduce our emissions
- This means, many of the consequences we see today will continue to get worse for next 30 yrs
We cannot avoid some of the devastating impacts

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We have emitted so much greenhouse gases that warming will continue until middle of the century, even if we drastically reduce our emissions

Thus, many of the consequences we see today will continue to get worse for next 30 years
IPCC report continued

- Other impacts will continue for longer – e.g. due to melting of ice sheets, global sea level will continue to rise for at least 2000 years
- Impacts are happening faster than expected
- This means we must learn to live with these consequences, minimize the impact on people, other species and biodiversity, increase resilience of communities, and build better infrastructure to withstand the consequences
- But, some communities will have to be relocated – already happening
Huge gap between what is promised and what is needed

Updated national pledges since COP26 make a negligible difference to predicted 2030 emissions

We are far from the Paris goal of 1.5 degrees Celsius

Current policies point to a temp increase of 2.8° C by end of century.

Only an urgent system-wide transformation can deliver the enormous cuts needed to limit greenhouse gas emissions by 2030: 45% to get on track to 1.5° C and 30% for 2° C.
Vulnerable communities

- Ethical considerations, and the principle of equity are central to this report, recognizing that many of the impacts of warming ... fall disproportionately on the poor and vulnerable.

- Equity has procedural and distributive dimensions and requires fairness in burden sharing both between generations and between and within nations.

- States need to reduce GHG emissions by 50% by 2030 and go carbon neutral by 2050
Impacts on people

- Water scarcity
- Land degradation and desertification
- Food production and food security
- Health impacts (including mental health impacts) and increase in vector borne diseases
- Frequency and intensity of extreme weather events: flooding, drought, tropical storms, hurricanes
- Sea-level rise
- Wildfires
- Mass displacement and conflict (possible)
- Already witnessing adverse impacts on people
Inaction on climate change imperils millions of lives, doctors say


- Climate change is set to become the “defining narrative of human health,” a top medical journal warned—triggering food shortages, deadly disasters and disease outbreaks that would dwarf the toll of the coronavirus.

- But aggressive efforts to curb GHG emissions could avert millions of unnecessary deaths, according to the analysis from more than 100 health experts.
**CHANGES IN CLIMATE**
- Increased global temperature
- Extreme weather and disasters
- Precipitation extremes
- Sea level rise
- Changes in land use and growing seasons

**EFFECTS OF CLIMATE CHANGE**
- Extreme heat
- Air and water pollution
- Reduced food and water quality
- Changes in infectious diseases and vector transmissions
- Increasing allergens

**HEALTH IMPACTS**
- Heat related illness
- Cardiovascular disease, stroke, and other chronic conditions
- Injuries and death
- Mental and neurological disorders
- Zoonotic, vector- and water-borne diseases
- Respiratory diseases and asthma

**INTERVENTIONS & STRATEGIES**
- Early warning and preparedness
- Prevention or reduction of disease, illness and injury
- Community engagement
- Education and awareness raising
- Adoption and integration
Bushfires in Australia, 2020/21
Severe weather events associated with climate change
Hurricane Sandy, NY, 2012
Hurricane Ian, 2022
Impacts in the US
Climate change impacts in the US

- **US EPA** – “CC impacts our health, environment & economy”
- Warmer temperatures increase frequency, intensity & duration of heat waves, posing **health risks**, especially for children and the elderly.
- Worsening air and water quality, increasing spread of diseases, and altering the frequency or intensity of **extreme weather events**.
- **Rising sea level** threatens coastal communities and ecosystems. Flooding in FL is now common.
- Changes in patterns and amount of **rainfall** can affect water supplies and quality, and production of hydroelectricity – already CA and CO are experiencing water shortages.
- Increases in frequency and intensity of extreme weather events, such as heat waves, **droughts**, and floods, cause losses to property, costly disruptions to **society**, and reduce affordability of insurance.
- Relocation of communities – Alaska, Louisiana (many Indigenous)
“I believe climate change is the biggest human rights issue of the 21st Century”

Mary Robinson (former President of Ireland, Special Rep’ve of UN SG on Climate Change & Mary Robinson Foundation – climate justice)
Climate change and human rights

Impact of climate change on human beings is obvious

2008 - UN Human Rights Council adopted the first resolution on climate change - since then adopted resolutions almost annually

2009 - Office of the High Commissioner for HR prepared an analytical report on the link at HRC’s request – many more reports compiled

Report recognized that almost all human rights could be affected by climate change

2012 – mandate for a Special Rapporteur on HR and Env created
2021 – Mandate for a Special Rapporteur on CC & HR created

Treaties don’t exist in a vacuum. States must comply with their human rights obligations to ensure that people’s rights are protected from adverse consequences of climate change
## Impacts on people and enjoyment of rights

<table>
<thead>
<tr>
<th>Impacts</th>
<th>Rights affected</th>
<th>Relevant HR instrument</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water and food scarcity</td>
<td>right to food and water</td>
<td>ICESCR, UN GA resolution on right to water</td>
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<tr>
<td>Land degradation and desertification</td>
<td>Food, water, property livelihood</td>
<td>ICESCR, UDHR Desertification Conv.</td>
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<tr>
<td>Health impacts (including mental health impacts), asthma and vector borne/Zoonotic diseases</td>
<td>right to health and indirectly, education, livelihood</td>
<td>ICESCR, CRC, CEDAW</td>
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<tr>
<td>Frequency and intensity of extreme weather events: flooding, drought, tropical storms, hurricanes</td>
<td>Displacement, livelihood, life, health, shelter, food, water, equality, freedom of movement, indirectly education</td>
<td>ICCPR, ICESCR, CRC, CEDAW</td>
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</tbody>
</table>
## Impacts on people and enjoyment of rights contd

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<td>Sea-level rise, Wildfires</td>
<td>rights to housing (shelter), life</td>
<td>ICESCR, ICCPR, UDHR</td>
</tr>
<tr>
<td>Mass displacement and conflict</td>
<td>rights to life, shelter, education, privacy, culture</td>
<td>ICESCR, UDHR</td>
</tr>
<tr>
<td>Permanent relocation of people – small island states</td>
<td>In addition to above, right to a nationality</td>
<td>UDHR, ICCPR</td>
</tr>
<tr>
<td>Degraded environment</td>
<td>Right to a healthy environment</td>
<td>UN GA resolution on RHE</td>
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Mitigation measures

- States have committed to reducing their GHG emissions under the Paris Agreement (NDCs)
- How they implement their commitments could have an adverse impact on people and their rights
  - Eg. REDD+, CDM programs
  - Carbon taxes could have a disproportionate impact on single mothers
- Thus, important to adopt a rights-based approach to mitigation
Adaptation measures

Even if states were to go for zero emissions tomorrow (very unlikely), CC will continue for decades because of the GHGs already in the atmosphere.

Thus, adapting to a warmer climate is a necessity for the current generation and the next (at least).

Adaptation measure that we put in place should be evaluated for their human rights impact.

At a minimum, adaptation plans must be made with the participation of those who are likely to be affected, provide them with the necessary information, incorporating their local knowledge in these plans.

Treat them as agents of change, not hapless victims.
Climate change adaptation is about water: either too much........
Or too little.......
Vulnerable groups/states

- Due to historic marginalization, other vulnerabilities or geography some groups/states are more susceptible to climate consequences than others.
- These groups include women, children, indigenous peoples, the elderly, poor people, refugees (including “climate refugees”), disabled people, minorities, small island states.
- Vulnerable countries include: small island states, low-lying countries like Bangladesh, poor countries that lack resources & technology to engage in adaptation measures.
- Environmental justice movement originated in the US because of the practice of siting polluting industries predominantly in minority and poor communities.
- Human rights law and climate justice provide a good framework to protect these groups.
Women

- In many societies women are responsible for fetching water, gathering firewood. Climate change will exacerbate water scarcity and women and girls will have to walk longer to fetch water.
Resettling the First American ‘Climate Refugees’
NY Times, May 2, 2016
Federal grant of $48m to move the inhabitants of Isle de Jean Charles, LA

Climate change acts as a threat multiplier – it exacerbates existing vulnerabilities

Projection of number of people displaced by CC – 20-200 million by 2050. Some even put this number at 1 billion people displaced by the turn of this century

CC is not the only reason why people move so hard to find credible numbers

IPCC – very 1st report noted that the greatest single impact of CC may be on human migration
Will these Alaska villagers be America's first climate change refugees?

Scientists estimate that due to climate change, the village of Kivalina, in northwestern Alaska, will be underwater by the year 2025.
Indigenous peoples
Small island states and their people

- Small island states
  [http://aosis.org/international-year-video/](http://aosis.org/international-year-video/)

- They are at the risk of slowly sinking and eventually disappearing – about 50 states are at the risk of completely disappearing

- What will happen to the people? Where will they go? Will they become stateless? Refugees?

- Their citizenship?
Small island states
A disproportionate impact of climate change will be borne by those who contributed least to it – small island states, least developed countries and vulnerable groups – inequality is a big challenge. Some states have argued that HR framework is unfair because it places an obligation on them to protect their citizens when their contribution to the problem is minimal – need a justice approach. Various definitions - Environmental (climate) justice has four components:

(a) **distributive justice** – fair allocation of benefits and burdens
(b) **procedural justice** – open, informed and inclusive decision-making processes
(c) **Corrective justice** – obligation to provide compensation (correct past wrongs)
(d) **Social justice** – environmental struggles are intertwined with struggles for economic and social justice

Climate justice can be applied in relation to **vulnerable communities** within states as well as **vulnerable states** themselves (eg. small island states)
Paris Agreement, 2015

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.
Recognized, for the 1st time, the right to a safe, clean, healthy and sustainable environment as a human right

Acknowledged that a healthy and sustainable env. is critical to the enjoyment of all human rights

Recognized that environmental degradation, climate change and unsustainable development constitute serious threats for present and future generations to enjoy human rights, including the right to life.

This recognition is a significant step forward in the fight against climate change

Also created a mandate for a special rapporteur on climate change and HR
Giving a voice to marginalized groups

- Several vulnerable groups have used the human rights framework to seek redress for damage caused by climate change
- These include indigenous groups, climate refugees and children
- Examples: Inuit petition in 2005 against US – alleging that US as the biggest contributor should take measures to reduce GHG emissions, help with adaptation measures.
- While not successful, had a cascading effect, led to the recognition of the link between CC and HR
Other cases

Sacchi and others v. Argentina (and 4 other cases)
UN Committee on the Rights of the Child (CRC Committee)

16 children filed a petition that Argentina, Brazil, France, Germany and Turkey violated their rights under the UN Convention on the Rights of the Child by making insufficient cuts to GHGs.

They asked the CRC Committee to declare that respondents violated their rights by perpetuating climate change, and recommend actions on mitigation & adaptation.

Petitioners claimed that climate change has led to violations of their rights under the Convention, including the rights to life, health, and the prioritization of the child’s best interest.

E.g., One petitioner asserted that she has been repeatedly hospitalized for asthma attacks triggered by rising temperatures and exacerbated smog.

The Committee found that the youth are victims of foreseeable threats to their rights to life, health, and culture.

Important decision - Global nature of CC does not absolve us of our individual responsibility to address climate change.
Climate refugee case

*Teitiota v. New Zealand* (Human Rights Committee)

- 1st case involving climate refugee status

“Given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.”

While not successful, the Committee recognized the phenomenon of climate refugees

Recognized that climate change could pose a serious risk to life that states should not send them back home

Also recognized that some small islands could disappear in future
Indigenous peoples - Daniel Billy and others v. Australia

- UN Human Rights Committee (Torres Strait Islanders case)
- This was the first human rights case to require a state to provide compensation to the affected community (Torres Strait islanders – indigenous community)
- Again, endorsed states’ individual responsibility to address climate change
- Called upon Australia to help these communities adapt to climate consequences and to refrain from causing damage in the future
Conclusion

- Climate change is a complex problem and can seem overwhelming
- Truly a global/collective action problem - every country in the world, every sector of the economy, and every person is contributing
- Some communities & countries which contributed least to the problem are disproportionately affected, raising justice concerns
- Vulnerability of certain groups must be recognized but we must treat them as agents of change
- Reducing GHG emissions have positive impact on ppl by reducing deaths by air pollution, heat strokes, extreme weather events etc. – better health outcomes
- Human rights framework has given a voice to marginalized and vulnerable communities that are disproportionately affected by climate change
Conclusion contd...

- CC affects the enjoyment of almost all human rights.
- But it has also given a voice to the voiceless.
- We need to hold those responsible (major emitters) accountable.
- There are exciting legal developments taking place.
- Global nature of CC does not absolve us of our *individual responsibility* to address climate change – UN Committee on the Rights of the Child.
- Now we must act and treat this as an emergency.
- We created this problem so we should solve it – we owe it to our children and grandchildren to do so.
Thank you!