

HUMAN RIGHTS VIOLATION AND CLIMATE CHANGE: AN OVERVIEW

Abstract

In this paper the author has highlighted an adverse impact to human rights because of climate change issues. Initially the article deals with the demerits of climate change and discusses the efficacy of human rights and how that will be affected if climate change is not controlled. Right to life and right to food are essential rights of human rights and the author has analysed these rights that how they are victims of climate change issues. It is now evidenced that climate change will definitely give negative impact to right to life and right to food, therefore, new policies to be accepted globally and in India too. In the last and remaining part of the paper, author has tried to discuss the judicial pronouncements on the issue of how to mitigate the environmental crisis.

I Introduction

IN ORDER to improve our living standard our casual action is giving a negative impact towards our living standard and we are living in that era only.¹ In this current paper the author is trying to bring the reality that it is anthropocentric activities² which is causing maximum risk to human civilisation and most of the people of the world thinking in that line only. As there are people who cannot see beyond the four walls of the home, similarly there are people think that climate change is not a real phenomenon.³ Instead of going with the scientific mechanism to reduce the negative impact of the climate change,⁴ the people that argue that the climate change is the consequence of nature's own play or because of anthropocentric activities.⁵ There are natural disasters which are caused by climate change⁶ and it can be inferred according to Sir John Holmes⁷ that 9 out of 10 natural disasters are the consequences of climate change. While addressing at the Dubai International Humanitarian Aid and Development Conference (DIHAD), 2008 Sir John Holmes stated that if there will be population

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- 1 Robert Froembling, "Shifting Public Perception: Climate Change Means Living with Fire and Smoke", 10 *Seattle J. Tech. Envtl. and Innovation L.* 279 (2020).
 - 2 Albert C. Lin, "Evangelizing Climate Change", 17 *N.Y.U. Envtl. L.J.* 1135 (2009).
 - 3 Mark P. Nevitt, "Is Climate Change a National Emergency?", 55 *UC Davis L. Rev.* 591 (2021).
 - 4 Rebecca Tsosie, "Indigenous People and Environmental Justice: The Impact of Climate Change", 78 *U. Colo. L. Rev.* 1625 (2007).
 - 5 Malgosia Fitzmaurice, 'Responsibility and Climate Change' 53 *German Yearbook of International Law* 89 (2010)
 - 6 Isabel Victoria Cabrera Rivera, 'The Impact of Natural Disasters and Climate Change in the Forced Displacement of Persons' 2018(21) *LEX - Journal of the Faculty of Law and Political Science / Revista de la Facultad de Derecho y Ciencia Política* 417 [2018]
 - 7 Margaret Alston, 'Social Work, Climate Change and Global Cooperation' 58(3) *International Social Work* 355 (2015)
 - 8 Ori Sharon, 'To Be or Not to Be: State Extinction through Climate Change' 51(4) *Environmental Law* 1041(2021)

displacement that will be due to climate change which can be seen in the future.⁸ The reason behind unexpected weather battle is because of climate change⁹ and that will also affect the agricultural practices and thereby food supply.¹⁰ It is to be understood that India being the country in South Asia has three side coastal line¹¹ which measures approximately 7516 km and the people who are residing at the coastal line are involved in many trade practices, for example, sea beach tourism, prawn culture, fishing, agriculture, *etc.*,¹² As soon as there will be rise of sea water level because of climate change these people who were residing at the coastal line when try to move to upper land in search of secure place and this process will amount to climate refugee¹³ and this will give adverse impact on social economic condition of these people.¹⁴ Nevertheless, the people have started taking this climate change seriously, because there are people who were aware of the fact that today or tomorrow the angry face of the nature will be witnessed by them globally whether they like it or not.¹⁵ The global affairs on climate change¹⁶ making this happen and people are serious to understand the negativity of climate change¹⁷ and if they are going to keep them ready to meet with the exigencies in future on those factors, they will win the war in the battle with the consequence of climate change.¹⁸

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- 9 David R. Hodas, 'Standing and Climate Change: Can Anyone Complain about the Weather' 15 (supplement issue) *Journal of Land Use & Environmental Law* 451 (2000).
 - 10 Jonathan Verschuuren, "The Paris Agreement on Climate Change: Agriculture and Food Security" 7(1) *European Journal of Risk Regulation (EJRR)* 54 (2016).
 - 11 Parshant Kumar, "Climate Change and Environmental Justice in India" 5 *International Journal of Law Management and Humanities* 1901 (2022).
 - 12 Tony George Puthucherril, "Climate Change, Sea Level Rise and Protecting Displaced Coastal Communities: Possible Solutions" 1(2) *Global Journal of Comparative Law* 225 (2012).
 - 13 Michel Rouleau-Dick, "Sea Level Rise and Climate Statelessness: From 'Too Little, Too Late' to Context-Based Relevance" 3(2) *Statelessness and Citizenship Review* 287 (2021).
 - 14 Ann Powers, 'Sea-Level Rise and Its Impact on Vulnerable States: Four Examples' 73(1) *Louisiana Law Review* 151 (2012).
 - 15 Richard Grosso, "Planning and Permitting to Reduce and Respond to Global Warming and Sea Level Rise" 6 *Journal of Animal and Environmental Law* 41(2015).
 - 16 John Darcy, "Global Climate Change Law" 2021 *Global Environmental Law Annual* 7 (2021).
 - 17 George A. Sarpong, 'Minimising the Adverse Impact of Climate Change in Ghana: Some Institutional and Legal Considerations' 23 *University of Ghana Law Journal* 1 (2005-2007).
 - 18 Brigham Daniels, 'Addressing Global Climate Change in an Age of Political Climate Change' 2011(6) *Brigham Young University Law Review* 1899 (2011).

II Human rights affected by climate change issues

The violation of human rights¹⁹ can be made possible due to climate change, because of global warming by which melting of ice²⁰ and risk on food security of the nation will be raised because of flood and drought caused due to climate change.²¹ Because of climate change there will be unexpected rainfall²² which will affect the agriculture and can cause salinisation of River water,²³ which might affect drinking water²⁴ issues to the people. The small islands²⁵ can be vanished from the purview of the global map, for example, Maldives,²⁶ if the climate change issues are not addressed seriously.²⁷ There will be negative impact on the fundamental environmental rights as enshrined under various international conventions, if the environmental changes are happening due to climate change.²⁸ It is not that only one nation will be affected, rather people around the world would be affected if the climate change issues are not addressed appropriately.²⁹ Intergovernmental Panel on Climate Change in its fifth session categorically stated that climate change will bring sudden change in the natural resources, ecosystem and various infrastructure that will give the negative impact on the human life and they will be unable to sustain their normal life.³⁰ The process of climate change, if not controlled, will bring potential hazard to the human life because affected people will have no proper access to clean water and food.³¹ The author will examine the

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- 19 Laura Westra, "Climate Change and the Human Right to Water" 1 *Journal of Human Rights and the Environment* 161(2010).
- 20 Erin Flannery Keith, "Melting Ice, Shifting Seas: An Arctic Law Update" 32(2) *Natural Resources and Environment* 52 (2017).
- 21 Kola O. Odeku, "Climate Injustices due to the Unequal and Disproportionate Impacts of Climate Change" 11(1) *Perspectives of Law and Public Administration* 103 (2022).
- 22 Rebecca L. Kihlslinger *et al.*, "Extreme Weather and Climate Change" 50(12) *Environmental Law Reporter* 10963 (2020).
- 23 Jesse Reiblich and Christine A. Klein, "Climate Change and Water Transfers" 41 *Pepperdine Law Review* 439 (2014).
- 24 Sandra Zellmer, "Wilderness, Water, and Climate Change" 42(1) *Environmental Law* 313 (2012).
- 25 TuilomaNeroni Slade, 'Environment Concerns of Small Islands' 31(3) *Environmental Policy and Law* 157 (2001).
- 26 'Life on the High(er) Seas: Adapting to Climate Change in the Maldives - An Interview with Abdulla Shahid' 32 *Fletcher Forum of World Affairs* 15 (2008).
- 27 Erin Halstead, "Citizens of Sinking Islands: Early Victims of Climate Change" 23(2) *Indiana Journal of Global Legal Studies* 819 (2016).
- 28 Matthew J. Kalhofer, "An Alternative Approach to Climate Change Litigation: Fundamental Climate Rights and Decentralized Renewable Programs" 21(2) *Journal of High Technology Law* 477 (2021).
- 29 Kashin Nagpal, "Climate Change and the Falling World" 2(4) *Jus Corpus Law Journal* 771 (2022)
- 30 "Intergovernmental Panel on Climate Change 1992 IPCC Supplement" 9(1) *Arizona Journal of International and Comparative Law* 9 (1992).
- 31 Svitlana Kravchenko, "Right to Carbon or Right to Life: Human Rights Approaches to Climate Change" 9 *Vermont Journal of Environmental Law* 513 (2008).

difference between human rights perspective and human rights law. It is interesting to note here that the human rights law provides humanitarian policy and development³² and there is no possibility to discuss what basically called the human rights. Let us discuss about both the issues.

III Human rights affected during calamity

It will be wise to discuss first the human rights which are affected due to natural calamity and then the discussion can go ahead with the violation of human rights during climate change.³³ The major human rights which are affected during the natural calamity and also during climate change issues are, Right to water, Right to food, Right to life, Right to health, Right to self-determination and Right to hold property.³⁴ The author has explained three basic rights from the above findings, that is, right to life, right to food and a right to self-determination because these three rights cover the other rights within its parameter.³⁵ It will be easy to see the impact of other rights once the link between the climate change and human rights are established.

IV Status of right to life on climate change³⁶

The human rights are protected under various international as well as regional instruments.³⁷ The scope and object of right to life is very well mentioned under the International Covenant on Civil and Political Rights (ICCPR).³⁸ The document clearly mentions that the state should come together to protect this right, because the right to life should not be understood as a casual right because inherently it is a wider right.³⁹ There will be a violation of right to life if the various nations take this right in casual manner and act passively towards a life-threatening issues involved in climate change.⁴⁰

32 Siobhan McInerney-Lankford and Aaron Fellmeth, 'International Human Rights Law, Normative Hierarchy, and Development Policy' 54(2) *New York University Journal of International Law and Politics* 311 (2022).

33 Noah M. Sachs, 'Climate Change Triage' 44(4) *Environmental Law* 993 (2014).

34 Julie H. Albers, 'Human Rights and Climate Change' 28(1) *Security and Human Rights* 113 (2017).

35 Amy Maguire and Jeffrey McGee, 'A Universal Human Right to Shape Responses to a Global Problem: The Role of Self-Determination in Guiding the International Legal Response to Climate Change' 26(1) *Review of European, Comparative and International Environmental Law* 54 (2017); *See also supra* note 31.

36 Ana Beridze, 'The Right to Life in the Context of Climate Change' 2021(1-2) *Journal of Constitutional Law* 187 (2021).

37 Louis Henkin, 'International Human Rights as Rights' 1(2) *Cardozo Law Review* 425 (1979).

38 Anne Wagley, 'How to Use the New Human Rights Laws' 51(3) *Guild Practitioner* 71 (1994).

39 Grant Wilson, 'Envisioning Nature's Right to a Stable Climate System' 10(1) *Sea Grant Law and Policy Journal* 60 (2020).

A petition developed by the Inuit community⁴¹ from Maldives is an example of eye-opening to right to life, where the petition seeks relief from US for the inaction towards climate change.

V Maldives petition to save right to life (Inuit petition details)

The climate change can really affect the right to life can be best understood from the petition filed by Maldivians and Inuit community, petition was filed before the Inter-American Commission on human rights by the Inuit community, which stated that the US did not take any active steps and measures to reduce the negative impact of climate change, because of which the right to life of the Inuit community is affected heavily.⁴² Regarding the adverse impact on the environment of Arctic region, the Inuit petition gives details of adverse impact of climate change issue.⁴³ The life of Inuit community is full of misery because of melting of ice and ice pattern changes due to climate change issues and that affected directly the agricultural practices done by Inuit community and source of food is affected thereby right to life is grossly violated.⁴⁴ Inuit community is famous for hunting on the frozen sea bed ice but because of melting of ice and changing ice pattern and due to climate change there is a restriction on hunting by the same community and thereby leads to violation of right to food and right to access food.⁴⁵ Because of climate change issues the Inuit community has been given extreme restriction on access to food, thereby right to life is affected.⁴⁶

VI Petition from Maldives

The right to life of the people residing in Maldives are heavily affected because of rising in the sea level.⁴⁷ Maldivians filed petition in 2008 before the office of the United Nations Human Rights Commission to state the fact that how the right to life is

40 Aaron Ezroj, "Climate Change and International Norms" 27(1) *Journal of Land Use & Environmental Law* 69 (2011).

41 Sarah Nuffer, "Human Rights Violations and Climate Change: The Last Days of the Inuit People" 37 *Rutgers Law Record* 182 (2010).

42 John H. Knox, "Climate Change and Human Rights Law" 50(1) *Virginia Journal of International Law* 163 (2009).

43 John H. Knox, "Linking Human Rights and Climate Change at the United Nations" 33 *Harvard Environmental Law Review* 477 (2009).

44 Marissa S. Knodel, "Wet Feet Marching: Climate Justice and Sustainable Development for Climate Displaced Nations in the South Pacific" 14(1) *Vermont Journal of Environmental Law* 127 (2012).

45 Kevin Du, "Santa Claus Is Canadian, Eh: Canada's Ice Rush to Claim the North Pole and the Northwest Passage" 30(4) *Wisconsin International Law Journal* 832 (2013).

46 Sophie Theriault, "The Food Security of the Inuit in Times of Change: Alleviating the Tension between Conserving Biodiversity and Access to Food" 2(2) *Journal of Human Rights and the Environment* 136 (2011).

47 Edward Cameron, "Human Rights and Climate Change: Moving from an Intrinsic to an Instrumental Approach" 38(3) *Georgia Journal of International and Comparative Law* 673 (2010).

affected because of sea level rise.⁴⁸ Maldivians are also in great fear being the small islands nation because of sea level rise due to fast melting of glaciers and ice sheet.⁴⁹ The sea level rise will affect the agriculture, tourism and right to access food in the small island of Maldives.⁵⁰ If the climate change is not checked and global warming also not controlled then very soon Maldives will be under sea water.⁵¹ This will be a serious consequence because there will be loss of nationality and self-determination of the Maldivians.⁵² When there will be no nation then the people of the concerned nation will not claim anything on right to life, right to own property, right to food, right to basic amenities, right of nationality, right of self-determination, et cetera.⁵³ Therefore, there will be loss of all rights, such as, no social right, no economic right, no financial right and no cultural rights that will ever be available to Maldivians, due to loss of land.⁵⁴ If the present case is considered under the Universal Declaration of Human Rights (UDHR) then it can be clearly stated here that the Maldivians will suffer with a huge loss of human rights.⁵⁵

VII Misbalancing right to food

The standard of living of individual means that people are having adequate and quality food that they can access, which is enshrined by the international convention on economic, social and cultural rights.⁵⁶ International Bill of Rights clearly mentions that right to food is a matter of dignity of the human being and cannot be undermined under any circumstances.⁵⁷ Whatever the environmental condition may be right to access the adequate and quality food is a profound importance as enshrined by the International Bill of Rights.⁵⁸ According to international convention on economic,

48 *Supra* note 42.

49 Sherwood Willing Wise Jr., “The Antarctic Ice Sheet: Rise and Demise” 15 *Journal of Land Use and Environmental Law* 383 (2000).

50 Emily Warfield, “Incorporating Analysis of Sea-Level Rise into Environmental Impact Reports” 37 *UCLA Journal of Environmental Law and Policy* 259 (2019).

51 Michael Gagain, “Climate Change, Sea Level Rise, and Artificial Islands: Saving the Maldives” Statehood and Maritime Claims through the Constitution of the Oceans’ 23(1) *Colorado Journal of International Environmental Law and Policy* 77 (2012).

52 *Supra* note 12.

53 *Supra* note 42.

54 Ben Juvelier, “When the Levee Breaks: Climate Change, Rising Seas, and the Loss of Island Nation Statehood” 46(1) *Denver Journal of International Law and Policy* 21 (2017).

55 Ryan Jarvis, “Sinking Nations and Climate Change Adaptation Strategies” 9(1) *Seattle Journal for Social Justice* 447 (2010).

56 Catherine S. Taylor, “Children’s Right to an Adequate Standard of Living” 22(2) *Children’s Legal Rights Journal* 17 (2002).

57 Frank C. Newman, “United States Bill of Rights, International Bill of Human Rights, and Other Bills, The: Introduction” 40(3) *Emory Law Journal* 731 (1991).

58 Steven D. Jamar, “The International Human Right to Health” 22(1) *Southern University Law Review* 1 (1994).

social and cultural rights the right to food is a very important right and the nation must ensure that the right to food is not jeopardised because of any economic situation of the country or for any other situation which may give the indication to jeopardise such right.⁵⁹ The food should be available to everyone at every moment is the slogan of article 2 of the United Nations Framework Convention on Climate Change (UNFCCC).⁶⁰ Carl Friedrich S has pointed out that agricultural production will suffer maximum at the lower altitude territory, if there is a small enhancement in the global mean temperature.⁶¹

It is true that a nation is bound to follow those human rights which are typically owned by the national laws, but at the same time the human rights declared by the international instruments will have wider outreach and all the nations must respect those rights for proper implementation.⁶² Articles such as 2 (1), 23, 11 of the International Convention on Economic, Social and Cultural Rights (ICESCR) are very important provisions in relation to protect the right to food that every nation must come forward to implement such rights.⁶³ These articles also make the nations responsible for providing food to people of other nations without putting any embargo or restrictions, when such a nation is suffering because of violation of basic human rights including right to food. Therefore, as per this convention right to food is in the form of universal human right.⁶⁴

VIII How to provide protection to right to life and right to food when they are affected by climate change?

Primarily, it seems that the climate change issue will directly affect the production of food, thereby there will be scarcity of food and food will become expensive and the poor people will be rendered helpless to access the food.⁶⁵ One of the quickest ways to control the climate change issue is to regulate the emission of greenhouse gases and

59 Fons Coomans, "The Extraterritorial Scope of the International Covenant on Economic, Social and Cultural Rights in the Work of the United Nations Committee on Economic, Social and Cultural Rights" 11(1) *Human Rights Law Review* 1 (2011).

60 Nilufer Oral, "Ocean Acidification: Falling between the Legal Cracks of UNCLOS and the UNFCCC" 45(1) *Ecology Law Quarterly* 9 (2018).

61 Caitlin E. Werrell and Francesco Femia, "The Thirty Years' Climate Warming: Climate Change, Security, and the Responsibility to Prepare" 20(1) *Seton Hall Journal of Diplomacy and International Relations* 21 (2018).

62 Daniel M. Pallangyo, "Addressing Climate Change Using International Human Rights Law Lens" 5 *Tuma Law Review* 1 (2018).

63 Hennie Strydom, "The Protection of Economic, Social and Cultural Rights in International Law" 5 *Constitutional Review (Consrev)* 222 (2019).

64 *Supra* note 31.

65 Ying Chen, "The Right to Food" 12(Issues 3 - 4) *European Journal of Law Reform* 158 (2010).

use alternative gases for societal development and industrial purpose.⁶⁶ “Adapting agriculture to climate today, for tomorrow” is a program conducted by International Research Institute for Climate and Society (IRICS) which has the objective how to reduce the crop loss and maximise the production irrespective of climate change.⁶⁷ The program also suggests for maintenance of a separate fund which can be utilised in case of emergency situation caused due to climate change.⁶⁸ There is a low productivity of food crops in India and the government should emphasis more on higher productivity of food crops and that is possible through the sustainable agricultural practice.⁶⁹ The water management through the irrigation system in India needs proper attention and drip irrigation should be accepted for most of the food crops rather than only for high value horticultural crops.⁷⁰ The government should provide subsidies on electricity bill for the purpose of encouraging more and more drip irrigation practices all over India.⁷¹ Regarding quickly addressing disaster problem in India people have already taken a good lesson from Bhopal gas tragedy.⁷² Even the recent Chennai floods the rescue team and food facility approach the affected places after a long period of time.⁷³ India should think of raising fund to meet with this anti climate change infrastructure to meet with the exigencies.⁷⁴ Necessary precautionary approach can only be taken when there is proper impact assessment of the natural calamity be undertaken under scientific management scheme to forecast such calamity and meet with the exigencies through proper infrastructure.⁷⁵

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- 66 Davison, Steven G, “Regulation of Emission of Greenhouse Gases and Hazardous Air Pollutants from Motor Vehicles” 1 *Pittsburgh Journal of Environmental and Public Health Law* 1 (2007).
- 67 Mark S. McCaffrey and Susan M. Buhr, “Toward a Climate-Literate Society” 38(12) *Environmental Law Reporter News and Analysis* 10838 (2008).
- 68 *Supra* note 3.
- 69 “Climate Change, Sustainable Development, and Ecosystems” 2010 *Environment, Energy, and Resources Law: The Year in Review* 30 (2010).
- 70 *Supra* note 23.
- 71 Elizabeth Burleson, “Multilateral Climate Change Mitigation” 41(3) *University of San Francisco Law Review* 373 (2007).
- 72 Sheila Jasanoff, “Bhopal’s Trials of Knowledge and Ignorance” 42(4) *New England Law Review* 679 (2008).
- 73 Keith W. Rizzardi, “Money, Mandates, and Water Management: Foreshadowing a Florida Disaster” 21(1) *Vermont Journal of Environmental Law* 1 (2019).
- 74 Armin Rosencranz, Dilpreet Singh and Jahnavi G. Pais, “Climate Change Adaptation, Policies, and Measures in India” 22 *Georgetown International Environmental Law Review* 575 (2010).
- 75 Daniel A. Farber, “Coping with Uncertainty: Cost-Benefit Analysis, the Precautionary Principle, and Climate Change” 90(4) *Washington Law Review* 1659 (2015).

IX Judicial pronouncement in India on climate change

The National Green Tribunal Act, 2010 was enacted in India for the purpose of deciding only the environment -related disputes.⁷⁶ Section 20 of the legislation states that the tribunal in order to decide the environmental dispute shall take the help of the principles such as, sustainable development, precautionary principle, and polluter pays principle.⁷⁷ The tribunal can protect any right relating to environment.⁷⁸ There are two ways an environmental dispute can be decided as stated by the Supreme Court of India, first, to bring the international obligation⁷⁹ in Union Territory and decide the dispute and second, environmental impact assessment and public hearing⁸⁰ for a public project to be undertaken in India. The Supreme Court ordered in *Karnataka Industrial Areas Development Board* case⁸¹ for conducting a study of the public project whether the project may have adverse impact on the ozone layer. This order was issued by the apex court while deciding the petition filed by number of farmers, where their lands was being acquired by the state government for the purpose of executing a public project. While deciding the *Manushi Sangathan Delhi v. Govt. of Delhi*,⁸² the Supreme Court mentioned that the Municipal Corporation in Delhi cannot restrict on the cycle rickshaw because in the year 2007 report was published by the Intergovernmental Panel on Climate Change that the government should promote more and more eco-friendly vehicles and in which cycle rickshaw fits as eco-friendly vehicle. The glaciers near Rohtang pass are affected because of vehicular pollution and byhaphazard traffic system as stated by the High Court of Himachal Pradesh in *Court on its own motion v. State of Himachal Pradesh* case⁸³. The national green tribunal of the western zone decided in the case of *Ratandeep Randabri v. State of Maharashtra*⁸⁴ that the thermal power industry should be supplied with such type of coal, which will have less ash quantity for the purpose of emission control. In a way this relates to the controlling of greenhouse gas

76 Siddhanth Prasad and Malvika Kaushik, “India’s National Green Tribunal: A Contemporary Overview” 14(1) *Golden Gate University Environmental Law Journal* 37 (2022).

77 NavyaJannu, “India’s National Green Tribunal: Human Rights and the Merits of an Environmental Court” 46(6) *Environmental Law Reporter News and Analysis* 10474 (2016).

78 Domenico Amirante, “Environmental Courts in Comparative Perspective: Preliminary Reflections on the National Green Tribunal of India” 29 *Pace Environmental Law Review* 441 (2012).

79 Gayathri D. Naik, “The Right to a Clean Environment in India: Gender Perspective” 21(3) *Vermont Journal of Environmental Law* 371 (2020).

80 William A. Tilleman, “Public Participation in the Environmental Impact Assessment Process: A Comparative Study of Impact Assessment in Canada, the United States and the European Community” 33 *Columbia Journal of Transnational Law* 337 (1995).

81 AIR 2006 SC 2038.

82 WP(C) No.4572/2007.

83 CWPII No. 88 of 2017.

84 NGT App. No. 19/2014 (WZ).

emission. The National Green Tribunal while deciding *Indian Council for Enviro-legal Action v. Ganga River Basin*⁸⁵ case stated that the government should submit a report that how they are complying with the National action plan related with climate change. The tribunal further asserted that the adverse impact will be very high to ecological sensitive area due to impact of global warming and climate change.⁸⁶ The NGT clarified that the government should not finance those projects which are not supported by the action plan on climate change.⁸⁷ It is the right time now that the judiciary should intervene and direct the state to relook into the legislation relating to climate change and it is obvious because most of the petitioners are filing cases before the court with the loopholes already available in the existing legislation.⁸⁸

X Litigation on climate change and human rights approach

It is interesting to note here that the world health organisation has made a speculation that by 2030 the worst victims of the climate change will be the children and the nations will have to invest almost 4 billion dollars to health sector by 2030.⁸⁹ The lawyers and environmental activists⁹⁰ filed litigation before the court of law for ensuring environmental conservation and preservation and they have mentioned in the petition that it's a morality for everyone to be responsible to protect the environment.⁹¹ No curtailment to personal liberty and human development are the main focus for human rights.⁹² The United Nations Human Rights Council has shown the way by which there is a connectivity got established between climate change and human rights⁹³ and in its report stated that there is a threat to the people around the world and climate change itself will cause immediate and long-term discomfort that will definitely affect the full enjoyment of human rights.⁹⁴ The universal declaration of human rights and

85 NGT decided on Jan. 1, 2015.

86 Eric A. Posner and Cass R. Sunstein, "Global Warming and Social Justice" 31(1) *Regulation* 14 (2008).

87 Eric A. Posner and Cass R. Sunstein, "Climate Change Justice" 96 *Georgetown Law Journal* 1565 (2008).

88 Tom E. R. B. West, "Environmental Justice and International Climate Change Legislation: A Cosmopolitan Perspective" 25(1) *Georgetown International Environmental Law Review* 129 (2012).

89 Daniel Farber, "Basic Compensation for Victims of Climate Change" 38 *Environmental Law Reporter News and Analysis* 10521 (2008).

90 Grace Nosek, "Climate Change Litigation and Narrative: How to Use Litigation to Tell Compelling Climate Stories" 42 *William and Mary Environmental Law and Policy Review* 733 (2018).

91 Jiangfeng Li, "Climate Change Litigation: A Promising Pathway to Climate Justice in China" 37(2) *Virginia Environmental Law Journal* 132 (2019).

92 Braden Meason and Ryan Paterson, "Chikungunya, Climate Change, and Human Rights" 16(1) *Health and Human Rights Journal* 105 (2014).

93 *Supra* note 43.

94 Atieno Mboya, "Human Rights and the Global Climate Change Regime" 58(1) *Natural Resources Journal* 51 (2018).

international covenant on civil and political rights are the international instruments, which provide that it is the nation or state is capable of taking action against human rights violation.⁹⁵ It is confirmed by the office of the human rights commission that there are many number of people affected by the climate change issues and global warming, therefore, proper resources and infrastructure should be available to them to mitigate the crisis.⁹⁶ Accordingly, it becomes the responsibility of the state to ensure the proper controlling of greenhouse gas emissions⁹⁷ and should provide legal framework for the protection of the basic human rights of the people even at the time of natural calamity caused by climate change and should impose penalties and fines to the officials who fail to maintain such protocol.⁹⁸

XI Conclusion

It is clear from the above discussion that many organisations and individuals have wide cases and brought the environmental issues induced by climate change before the court of law to show that either the existing laws are not sufficient to address the crisis caused by climate change or there are no laws at all to address this crisis. The nations are taking important role in critically examining the large public projects and conducting impact assessment through public hearing process to show that the nation is going to mitigate the critical issues caused by climate change, but the states are not solving the critical dispute of climate change. To reduce the greenhouse gases and to control the climate change issues it is important that the principles relating to climate change must be incorporated in international law. domestic legislative framework and also to the common law. International human rights conventions are the documents to declare the major human rights of the global community and it is seen that nations are not serious to immediately address the issues caused by climate change, particularly to island nations or states. Anti-climate change fund should be established, where the public investment should be encouraged. The model of impact assessment should be changed to the effect that it can foresee the natural calamity that might affect while granting the large public projects due to climate change issues. The impact assessment should also provide a model guideline under which necessary infrastructure can be developed by the state to mitigate the crisis of climate change.

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95 Siobhan McInerney-Lankford, "Climate Change and Human Rights: An Introduction to Legal Issues" 33(2) *Harvard Environmental Law Review* 431 (2009)

96 *Supra* Note 71.

97 Arnold W. Reitze Jr., "Controlling Greenhouse Gas Emissions from Mobile Sources - Massachusetts v. EPA" 37(7) *Environmental Law Reporter News and Analysis* 10535 (2007).

98 John H. Knox, "The International Legal Framework for Addressing Climate Change" 12(1) *Penn State Environmental Law Review* 135 (2004)

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