



## Analytical Briefing on Climate Ambition and Sustainability Action

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# Human Rights Approach to Climate Change Emerging Grievances and Existing Framework

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The issue of climate change impacts, the risks that they carry and their implications for human rights are a set of issues that have hardly received attention. The focus both in a scientific context and within a policy perspective has generally been confined to technological and economic aspects of this growing challenge. But as science has advanced in explaining the reasons behind human induced climate change, we now have several elements which are a part of what must constitute an overall assessment of human rights related to the impacts of climate change.

The Fifth Assessment Report (AR5) of the Intergovernmental Panel on Climate Change (IPCC) in its Summary for Policy Makers, states: “Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive and irreversible impacts for people and ecosystems”. Further that “climate change will amplify existing risks and create new risks for natural and human systems. Risks are unevenly distributed and are generally greater for disadvantaged people and communities in countries at all levels of development”. This clearly means that some communities and regions are far more vulnerable than others, and hence their human rights would perhaps be infringed on to a much greater degree than others elsewhere, perhaps with lower population and severity of impacts. It is also true that over time the vulnerability to impacts may change from place to place. In the event of increase in sea levels, for instance, some low-lying regions could suffer severe impacts in the future. In fact, this could be the reason why, as the AR5 states: “Climate change is projected to increase displacement of people. Populations that lack the resources for planned migration experience higher exposure to extreme weather events, particularly in developing countries with low income. Climate change can indirectly increase risks of violent conflicts by amplifying well-documented drivers of these conflicts such as poverty and economic shocks”. Also, “from a poverty perspective, climate change impacts are projected to slow down economic growth, make poverty reduction more difficult, further erode food security and prolong existing and create new poverty traps, the latter particularly in urban areas and emerging hotspots of hunger”.

All of these developments constitute a growing assault on the human rights of individuals who are affected, and the extent to which they would be disadvantaged would depend on their vulnerability and the extent of exposure and severity of the impacts that they are subjected to. In a world where disparities of income and wealth are increasing at an alarming rate, an international mechanisms for redressal of human rights and, at a minimum, the grant of compensation, for effective adaptation for those affected should be made mandatory. Obviously, countries and societies historically responsible for cumulative emissions of greenhouse gases may resist any such measure, but the conscience of the world has to be provoked by all those who are concerned about this new threat to human rights which would engulf a much larger number of people in the future.



# Human Rights Approach to Climate Change

## Emerging Grievances and Existing Framework

Priyanka Gautam and Shailly Kedia

### Key messages >>>

- A novel precedent set by the indigenous strait islanders who have recently filed a complaint with the United Nations against Australia's lack of action on climate change will test the robustness of the international framework to respond to issues of human rights violations related to climate change.
- Instances of complaints lodged by individuals and environmental groups against fossil fuel companies and governments, using provisions of national law, also serve as precedents for individuals and activists who want to resort to legal recourse for holding businesses and governments accountable.
- Human rights approach has not received the amount of attention which market based approaches enjoy at UN forums to address climate change adaptation and mitigation.
- Climate change is a problem of the global commons and a rights based approach would entail a global consensus about rights-holders and their entitlements along with corresponding duty-bearers and their obligations. These duty bearers would then be multifarious in nature including governments, those bearing responsibility due to historical emissions, private entities and international organizations.

### Climate Change Human Rights Case Against Australia

Indigenous people from Torres Strait Islands, lying off the northeast coast of Australia, have filed a complaint with the UN against Australian government's inaction on climate change, which as per them violates their [fundamental human rights](#), by stripping their community of culture, traditions, social and emotional well-being. The case sets up a [novel precedent](#) as it is the first one to seek the backing of UN against a national government on the climate change issue. The islanders allege that the Australian government has not devised any policy framework at all to meet its emissions reduction targets. Instead, it has prioritized the interests of the fossil fuels industry by approving problematic [coal mine projects](#). As a result, these islanders are asking UN to apply international human rights law on Australian government to pressurize it into reducing emissions to at least 65 percent below 2005 levels by 2030 and also, phase out [coal consumption](#) as required. Further, citing the [International Covenant on Civil and Political Rights](#), a multilateral treaty that Australia is a party to, the Torres Islanders assert that Australia has the obligation to protect their freedom of culture and their right to family and life.

### Warnings by the scientific community

The situation faced by the Indigenous people of Torres Islands today had been very well anticipated in the reports of [Intergovernmental Panel on Climate Change](#), which mentioned the rise in the global sea levels by an average of up to 3.2 feet by 2100, thus forcing people to flee from low-lying atolls in the Pacific Ocean, the Indian Ocean and the Torres Strait. This deliberate lack of accountability gives rise to the question of climate justice and the nature of existing international framework to address such culpability.

Torres Strait Islanders



Source: [UN Photo](#)

### Evolution of human rights approach in the climate change regime

[Environmental approach](#) had dominated the climate change discourse in UN in the initial years. However, the adoption of the [Male Declaration on the Human Dimension of Global Climate Change](#) in 2007, endorsed by the Small Island States, introduced the human rights aspect to the problem. This is also for the fact that the low lying Small Island States are the first and the most vulnerable victims of climate change, dealing with its repercussions in real time, unlike other countries that still have time to cope-up with the impending climate crisis. As the discourse on the relationship between climate change and human rights has evolved, UN [Human Rights Council](#) and UN Framework Convention on Climate Change (UNFCCC) have emerged as the major mechanisms dealing with the issue.

### Evolution of climate change in the human rights regime

Human Rights Council (HRC), through its special procedure mechanisms has introduced [resolutions, reports and activities](#) on human rights approach to

climate change. It [recognized that](#) “climate change-related impacts have a range of implications, both direct and indirect, for the effective enjoyment of human rights...human rights obligations and commitments have the potential to inform and strengthen international and national policymaking in the area of climate change”. And as seen above in case of Australia and many other countries, it is usually the most vulnerable communities that pay the price of environmental degradation. In this respect, UN legal framework including the [Universal Declaration on Human Rights](#), the Vienna Declaration and Programme of Action, the Declaration on the Right to Development, the 2030 Agenda for Sustainable Development and the UN Common Understanding of a Human Rights-Based Approach to Development Cooperation mandates that development must be based on human rights principles of universality and inalienability, indivisibility, interdependence and interrelatedness, non-discrimination and equality, participation and inclusion, accountability, and the rule of law.

### Key messages on human rights and climate change

The Office of the High Commissioner for Human Rights, on the other hand, came out with [Key Messages on Human Rights and Climate Change](#) which advocates following ten considerations on climate action:

1. To mitigate climate change and to prevent its negative human rights impacts
2. To ensure that all persons have the necessary capacity to adapt to climate change
3. To ensure accountability and effective remedy for human rights harms caused by climate change
4. To mobilize maximum available resources for sustainable, human rights-based development
5. International cooperation
6. To ensure equity in climate action
7. To guarantee that everyone enjoys the benefits of science and its applications
8. To protect human rights from business harms
9. To guarantee equality and non-discrimination
10. To ensure meaningful and informed participation

### Recognition of human rights in UNFCCC processes

As far as UNFCCC is concerned, the [first direct reference](#) to human rights was made in the decision

1/CP.16 taken in 2010 which referred to the HRC resolution 10/4, recognizing the adverse effects of climate change on the effective enjoyment of human rights; which is why it called upon all States to ensure respect for human rights in their climate actions. Later, the Paris Agreement, adopted in 2016, in its preamble reiterated the above principles calling upon all States to “[respect, promote and consider their respective obligations on human rights](#)” in their measures to address climate change. Although, all of this points towards the positive developments in expanding climate change discourse, the human rights approach still faces challenge from the market based solutions that are regularly advocated by the industrialized economies at various UN forums to address adaptation and mitigation. So, it still remains to be seen how human rights approach to climate change translates into ground level activity.

### The road ahead

The debate on the relationship between Human Rights and Climate Change is relatively new, but the argument is picking up globally, evident in the emerging social movements in which litigants demand from governments to fulfill their [fundamental duty](#) to provide a livable environment. Parallel developments include awarding [constitutional rights](#) to nature by Ecuador and Bolivia. Other than that, there have been instances of complaints lodged by individuals and environmental groups against [fossil fuel companies](#) and [governments](#). Climate change is a problem of the global commons and a [rights based approach](#) would entail a common understanding in the global community about the rights-holders and their entitlements along with corresponding duty-bearers and their obligations. These duty bearers would then be multifarious in nature including governments, those bearing responsibility due to historical emissions, private entities and the international community. However, given the limitations of international law in this respect, mostly being soft law, it will eventually fall upon the political will of the sovereign states that human rights in light of climate change could be effectively enforced. Greenhouse gas emissions targets are still being flouted with impunity and this would remain a source of worry.

Photo credits (in order of appearance):

Roderick Eime Sabat Dancers at Torres Strait Cultural Festival on Horne Island via [Flickr](#)

R K Pachauri

Aboriginal and Torres Strait Islander Dance. UN Photo/Mark Garten. [www.unmultimedia.org/photo/](http://www.unmultimedia.org/photo/) via [Flickr](#)

## **Analytical Brief on Climate Ambition and Sustainability Action**

The analytical brief series, brought out jointly by the World Sustainable Development Forum and the Protect our Planet Movement, seeks to highlight a topical issue relevant to the realization of the sustainable development goals and ambitious climate actions.

### **About WSDF**

The World Sustainable Development Forum (WSDF) is a not-for-profit organization incorporated separately in Europe, Norway and the U.S. Its North American arm WSDF-NA, headquartered in Washington, DC carries 501c3 tax exempt status. WSDF is a global initiative to promote and mobilize global action for effective implementation of both the Paris agreement on climate change and the Sustainable Development Goals (SDGs) adopted by the UN General Assembly. WSDF's relevance and role lies in acting as a facilitator for helping with implementation of actions required under these two sets of agreements.



### **About POP Movement**

Protect our Planet (POP) Movement believes that the impacts of climate change will not affect a single country but the planet, in its entirety. POP believes that the power of the youth of the world will unite and to address this challenge. POP believes that the time to act is now and that knowledge is the true currency of changing the future.

