



NEAR EAST UNIVERSITY INSTITUTE  
OF GRADUATE STUDIES  
INTERNATIONAL LAW PROGRAM

**THE IMPACT OF CLIMATE CHANGE ON HUMAN  
RIGHTS**

OLUCHI BLESSING CHIEDO

MASTER'S THESIS

NICOSIA  
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## **ACCEPTANCE/APPROVAL**

We as the jury members certify the 'The Impact of Climate Change on Human Rights' prepared by the Oluchi Blessing Chiedo defended on 18/06/2021 has been found satisfactory for the award of degree of Master of Laws in International Law

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## DECLARATION

I OLUCHI BLESSING CHIEDO, hereby declare that this dissertation entitled 'THE IMPACT OF CLIMATE CHANGE ON HUMAN RIGHT' has been prepared myself under the guidance and supervision of 'Asst Prof. Dr. Nabi Berkut' in partial fulfilment of the Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach and Law of Copyrights and has been tested for plagiarism and a copy of the result can be found in the Thesis.

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## **DEDICATION**

I dedicate this work to God Almighty for the strength to effectively carry out this work. To my father Elder Lawrence Ndukwe Chiedo, as evidence of his support and finally to the Faculty of Law Near East University.

## **ACKNOWLEDGMENTS**

In my acknowledgment, I extend my warmest gratitude to my parents for their unflinching support towards me. My unalloyed gratitude goes to my International Human Right Lecturer, Dr. TUTKU, and my International Environmental Law Lecturer, Dr. DERYA, for their immersive academic impacts that led to this thesis work. Finally, to the best Supervisor Dr. Nabi Berkut, I say big thanks.

## ABSTRACT

### THE IMPACT OF CLIMATE CHANGE ON HUMAN RIGHTS

Climate change impact is one of the salient but neglected issues globally, as it has both direct and indirect effects on the environment and violates human rights. The global interest in this severe eating problem is low until the outbreak of the deadly virus (COVID-19). Some opinions in argument stated that climate change events have no direct connection to violating human rights, and the government has no responsibility for that. This work considered the history of climate change, climate change causes, countries affected by this change, and environmental treaties in the first part.

The Second Part of this work considered human rights documents, rights that are affected by the change, impacts of climate change, and why the silence on these impacts over the years is a big problem. While the third part of the work elucidated measures to take so as to curb the high rate of climate change affecting human rights, the available dispute resolutions and enforcement agencies.

And finally, the work explained the outbreak of the corona virus pandemic as a result of climate change and its effects on human rights, some observations and its impacts on the environment and rights. There is a collective duty on the government, privates, and non-state actors to prevent the causes of climate change and protect human rights from the impacts of climate change. The government should also provide adaptation measures to enable the right holders to adapt to climate risk.

**KEY WORDS:** Climate Change, Impact, Human Rights, Measures and COVID-19 PANDEMIC.

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**ABBREVIATIONS**

AIR	–	Atmosphere Infrared Sound
AIDS	–	Acquired Immune Deficiency Syndrome
CAF	–	Cancun Adaptative Frame Work
CH4	–	Methane
CO2	–	Carbon Oxide
CAT	–	Convention against Torture and Inhuman or Degrading Treatment
CERD	–	Covenant on Elimination on all Forms of Racial Discrimination
CEDAW	-	Convention on the Elimination of all Forms of Discrimination against Women
CRC	–	Covenant on the Right of a Child
CRPD	–	Convention on the Right of Persons with Disabilities
ECHR	–	European Convention on Human Right
ECtHR	–	European Court of Human Right
EPA	–	Environmental Protection Agency
GHG	–	Green House Gas
HIV	–	Human Immune Virus
H2O	–	Water
ICJ	–	International Court of Justice
ICT	–	Information and Communication Technology
ILC	–	International Law Commission
NASA	–	National Aeronautics and Space Administration

NCCRS	-	National Climate Change Response Strategy
NGO	-	Non-Governmental Organization
PCA	-	Permanent Court of Arbitration
UDHR	-	Universal Declaration of Human Rights
U K	-	United Kingdom
U S	-	United States
U N	-	United Nation
UNCED	-	United Nations Conference on Earth and Development
UNCLOS	-	United Nations Convention on the Law of the Sea
UNFCC	-	United Nations Frame Work Convention on Climate Change
UNEP	-	United Nations Environment Programme
USSR	-	Union of Soviet Socialist Republics
WHO	-	World Health Organization
VBD	-	Vector-Borne Disease

## **INTRODUCTION**

Human rights are one of the significant parts of the individual in the general public. Each person in the public eye has inalienable rights that are known as HUMAN RIGHT.

Being a fundamental attribute of popular government is a vital obligation laid to ensure and satisfy common liberties. The state should respect, promote, and fulfil human rights. This government attribute is also one of the accessible measures for the administration to produce against climate change results on common rights.

The UNEP report reveals insight into the basic rights commitments of both government and private actors in reacting to climate change, including those rights identifying with information, public participation in decision making, and admittance to equity just as commitment identifies with adaptation and mitigation. Climate change remains a genuine danger to basic freedoms, for example, the right to health, life, food sufficient way of life, and so forth.

In the 21st century, the number of suits identifying with climate change at the national and international levels is rising every day. For instance, the current COVID 19 case is going on between the Nigerian governments against the Chinese government, thus making environmental change a need for worldwide consideration.

The impact of environmental change in the public arena has been quite a while ago ignored issue throughout the long term, as it continued eating profoundly into our privileges, hurting the people.

The vast majority of the nations that accomplished the more considerable impact on the atmosphere are immature nations where the correct

assurances are excessively frail, just as the most unfortunate individuals living in developed nations. Individuals whose rights are ineffectively secured will probably be less well prepared to understand or get ready for the impacts of environmental change. Less ready to campaign successfully for government or global activity, and bound to come up short on the required assets to adjust to their current circumstance and financial circumstance, it turns out to be most noticeably awful where poor people's government's resources are not effective. This work is sectioned into chapters, introducing different topics in each chapter for better clarification.

In chapter one, climate change was introduced proper, following the history, causes, states that are affected by the change, emergence of international environmental law, and other environmental law treaties.

Chapter two reviewed the impact of climate change on human rights, pointing out the modern international law and human rights, sources of human rights, why climate change silence on human rights, the impact of climate change on human rights, the human rights dimensions on adaptation, international law observation on the climate change, available dispute settlements and monitoring and enforcement agencies.

Finally, chapter three reviewed the result and impact of Covid-19 pandemic on human rights. Having elucidated the contents of this work, the chapters will adumbrate the points listed

## LITERATURE REVIEW

The earth is human's definitive shared asset and climate. A few realities together make life on the world conceivable, for example, the galaxy, the seasons, the defensive stratosphere radiation shield, the thin layer of breathable climate, sufficient water assets, a moderate temperature range, daylight, average temperature, energy, and minerals, sunlight energy, the hydrological circle, the carbon circle, living soils, vegetation, and fauna.<sup>1</sup> The external piece of the earth, the mountains, timberland, fields, seas, ocean beds, waterways, lakes, wetlands, icy masses, ice fields, deserts, and so forth. The presence of the above gives rise to human rights.

Change is the main consistent thing in human life, just as in the human climate, it is not visible to remove these usual factors from change. This change can happen because of normal or artificial (human-initiated) activities. As the spearheading scientist, ALDO LEOPOLD saw over 50 years back that the regular advancement itself is changing. It is a cycle "to expound and differentiate the biota" (which we presently call biodiversity). Yet, man's development instrument has empowered him to make exceptional viciousness changes, quickly influencing the world's current circumstance. The more prominent the changes, the more noteworthy the probability that the influencing people, species, or biological systems will never recuperate<sup>2</sup>.

Presently, in the 21st century, we can consider the truth of Leopold's notice as the anthropogenic (human-caused) natural changes emergencies is currently widespread and genuine on each of the three degrees of earth-worldwide,

District/ trans-boundary, and local. The earth presently faces the "worldwide ecological issues, for example, anthropogenic environmental

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<sup>1</sup> Peter.D.Wards and Donald Brownlee, "RARE EARTH", why complex life is uncommon in the universe, (First Soft Copy Printing 2000) PL xxvii-xxviii

<sup>2</sup> Aldo Leopold: a sand county almanac, (New Yoke, Oxford University press 1949). Pg 214 – 220

change, stratospheric ozone exhaustion, nitrogen stacking, species elimination, biodiversity misfortune, sea contamination, standard zones demolition, deforestation, topsoil loss, declining food creation, drained fish stocks, pounding neediness, spiralling populace and grave human medical conditions, for example, (corona virus pandemic, lack of safe drinking water and sanitation). Human-caused natural issues cause climate change at the trans-boundary level, for example, corrosive deposition, air pollution, resource extraction impacts, the spread of sicknesses vector (Corona virus), and toxic chemical. A natural disaster can likewise expand human results like Japan's tragic March 2011 Earthquake that harmed an atomic force plant, causing radioactivity's arrival from the ocean and air. Human activity can likewise prompt catastrophic events, for example, Australia rapidly spreading fire in 2019 and East African dry season 2019.

By and large, these natural outcomes because of climate change influence the nation's economy, particularly the farming area, admittance to safe Water (counting transportation purpose), making the land appalling. It also influences individuals living in the impacted regions by causing contamination, sicknesses, respiratory issues, lack of healthy sustenance, mental issues, etc., which also affects the individuals' human rights as given under the primary human rights archives.

**PROBLEM QUESTIONS:** The big question challenging the globe is how to address these environmental issues that plague the world's human rights, especially among the developing countries and needy individuals. Also, how to balance these factors with the country's income sources, knowing that most of these developing countries rely on their natural resources to survive and boost their economy. While knowing that the constant activities on these resources lead to most of the environmental problems and at the same time handle the country's poverty alleviation. Hence, the struggle to balance environmental protection and poverty alleviation in other to protect human rights.

**STATEMENT OF PURPOSE:** While considering the increase in environmental problems as a result of climate change in this 21st century and the threats to the economic, social, and cultural life, this work will focus on the practical impact of climate change on human rights by exploring case laws, articles, journals and books (related written works from others), and taking available measures to in other to promote human rights.

**LEGAL METHODOLOGY:** From the existence of the world, the human environment has been one of the major contributory factors to development, giving room to continuous change. Most of these changes have great effects on the humans and animals in the environment. Concerning international laws, policies were made to regulate the utilizations of the natural resources in the environment most especially human activities that stir up changes that negatively affect the environment. The human inhabitants in these environments have special rights granted to them which are worldwide accepted, recognized, and adopted internationally. These rights are the fundamental rights that protect individuals in the environment; which are also affected by the hazardous effects caused by the changes in the environment. These changes and their effects on human rights have been predominant in society and given less attention. The reason for this work is to bring light to the areas where these rights have been affected so that human rights can be considered alongside while handling environmental protections. In achieving this work, mostly secondary source materials as journals, text books, articles and primary source material as treaties, case laws were used.

## **CHAPTER ONE: CLIMATE CHANGE AND EMERGENCE OF INTERNATIONAL ENVIRONMENTAL LAW**

### **Historic Evaluation of Climate Change from the French Revolution**

In step with Cambridge wordbook, climate may be a general climatic condition typically found in a particular place. In my very own term, the climate is the average nature of weather in a specific region that has lingered for several years and takes an extended time to change. According to oxford's dictionary, climate change is a new development in the international or domestic climate. Specifically, changes that occurred within the middle to twentieth century ahead and linked for the most part to the high carbon dioxide production as a result of constant usage of fuel fossils caused by human activities. In step with the National Aeronautics and Space Administration (NASA) definition, climate change is "a large worldwide event created by combusted fossil that involve heat tack gases in the atmosphere." These situations embrace the magnified temperature and cause water level rise, ice loss in the land, low plant growth, and extreme weather events. The study of climate change started early nineteenth century when the glacier age and the first summary of different environmental activities in ancient climate and the atmospheric environment event record. Within the end of the 19th century, there were several opinions on climate change theories, involving forces from geological events to solar differences. Within the 1960s, the proof for the warming effect of carbon dioxide gas became undoubted. Some scientists

recognized that human activities in the territory gave rise to natural aerosols (e.g., pollution).

Solar influences the climate, emitting energy in a short wavelength, mainly in the ultraviolet part of the span. Around one-third of the solar energy content that gets to the top of the earth's atmosphere is reproduced directly to space; the left two-third is taken to the surface in smaller quantities by the atmosphere. The external energy heats land and Water and emits heat; also, it warms the atmosphere. The hit emitted mix with gases in the atmosphere, and it generates to climate response. In equating the received energy, the planet should averagely radiate an equivalent sum of life back to space. Agriculture, civilizations, development world population grew from millions to billions even to the present twenty-first century.

Since 1850, industrial emissions have determined carbon levels from about 280 to 410.<sup>3</sup> Human populations are getting to eight billion, herewith increasing human activities. Amplifying CO<sub>2</sub> from industrial groups can keep the environment in an extreme hot condition caused by the commercial emission of greenhouse gases ensuing to heat cornered by CO<sub>2</sub> within the atmosphere as world temperature rises. These activities cause global warming. The increase of fuel over the past two hundred years, particularly the rise of CO<sub>2</sub> emissions after global war II, is the cause of climate change. Some atmospheric gases restricted the heat from escaping, whereas the lasting gases in the atmosphere respond physically or with chemicals to temperature changes. These gases are called "feedbacks," e.g., Water (H<sub>2</sub>O). Those that don't need a physical or chemical response to change are known as "forcing," e.g., Methane.

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<sup>3</sup>Time, 'How Understanding the History of the Earth's Climate Can Offer Hope amid Crisis' (2020) <<https://time.com/5680432/climate-change-history-carbon>>accessed 8 December 2020.

Two main forcing activate this change, the positive forcing that warms the earth and the negative, which cools the world. There are external forces that cause climate change due to changes in solar activity or human- caused fuel combustion. E.g., variation in radiation levels, volcanic eruption, surface reflection (albedo), and so forth. These reactions of forcing and feedbacks change the climate from natural to unnatural.

From 1787 to 1788, France experienced a revolution<sup>4</sup> due to harsh cold weather, which led to late sowing of grains and severe wet spring that was not favourable for grain harvest followed, but wine farmers made fair use of the weather. Before this time, the country has given the free sale of grain, and the people sold most of their grains to other countries. As a result of the weather change and late farming, there was a gross scarcity of grain available for the populations, and the people started selling the little grains at a high price, which the poor masses cannot afford to buy. The only set of people that benefited from it was the farmers and landowners. In 1788, heavy hailstone began in France in June, weighing eight livers causing several damages on-farm produces, leading to the worst harvest in 40years.<sup>5</sup> After that, there was an extreme drought in the country with high temperatures, reducing it to a desert. These climate changes gave rise to food shortages, death, and crime. People started violating the law, attacking both land and water grain transporters, breaking into bakeries, and assaulting the workers, all for grains' high cost. When the rich were not assisting, and they keep spending the available resources extravagantly, the poor became aggressive; hence, the emergence of the revolution with riots, guillotines, etc.

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<sup>4</sup>Britannica<<https://www.britannica.com/event/French-Revolution>> accessed 8 December 2020.

<sup>5</sup>Ibid

## Causes of Climate Change

**WATER VAPOUR:** The foremost ample greenhouse gas within the atmosphere and feedback. There is a rise in water vapour because the earth's amplifying atmosphere warms. It absorbs radio emission and radiates it back to the surface, so contributory warming. DESSLOR and his colleague from Texas A&M University in the school Station verified that water vapour's warmth is active enough to double the climate warming caused by the magnified carbon dioxide level in the atmosphere.

The researched team used novel information from the Atmosphere infrared sounder (AIRS) on NASA's aquamarine Stateline to ascertain the moisture throughout the least 10 miles of the atmosphere. The scientist combined the novel information with worldwide observations of shifts in temperature, permitting researchers to make a comprehensive image of the interaction between water vapour, carbon dioxide, and different gases within the atmosphere. Generally, once carbon dioxide is in the atmosphere, there will be warming going on. The massive question is what proportion of WARMING? The extent of warming depends on the magnitude of water vapour feedbacks. The larger the water vapours, the hotter the temperature becomes. Water vapour also can amplify the warming result of different greenhouse gases, that warming by the rise in carbon dioxide permits a lot of water vapour to enter the atmosphere.

**CARBON DIOXIDE (CO<sub>2</sub>):** In as much as there is much industrialization, the accumulation of carbon dioxide within the environment magnified due to the importance of the use of fossil fuel in this twenty-first generation, most of the activities are enthusiastic about it, particularly technological activities, thus the high rate of greenhouse effect inflicting global warming. Human activities and production have led to deforestation hence encouraging the presence of carbon dioxide in the environment. The worldwide average of carbon dioxide within the atmosphere in 2019 was 409.8 parts per million (PPM).

**METHANE (CH<sub>4</sub>):** It relies upon fossil fuels, land-use changes, intensive animal farm operations, and anaerobic decay of organic matters within the environment.

**NITROUS OXIDE:** It is called the laughing gas; like different greenhouse gases, it receives radiation luring heat in the environment where it will stay for a median of 114 years in step with EPA. It is unveiled to sun and oxygen, converting it to nitrogen oxide. Nitrous oxide destroys the ozonosphere that stops the ultraviolet rays from reaching the earth and harming human beings. Nitrous Oxide is useful in the agricultural sector as connecting to food and manure production, making it helpful in the farming sector. It is related to the production of food<sup>6</sup> in using it for livestock manure. According to Ben Lilliston, Director of Rural Strategies and Climate Change at the Institute of Agriculture and Trade policy, manure making, when the waste does not receive oxygen towards the pit's button, changes into nitrous oxide. It also happens when manure is over-applied to crops. Aside from agricultural practices, it is released from fuel burning, though the amount depends on the fuel burnt and the combustion technology used. That is why it difficult to pay full attention to it, yet it is one of the most harmful gases that destroy the ozone layer.

**CONSEQUENCES:** The increase in melting ice and heating the oceans results from lasting greenhouse gases within the atmosphere. Carbon dioxide (CO<sub>2</sub>) got to 405.5 parts per million (ppm) in 2017, and it is still rising. From 1990, the radiating forcing has increased to 41% due to the warming result in the climate by long-lived greenhouse gases.<sup>7</sup> CO<sub>2</sub> is

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<sup>6</sup> Ravishankara, "an atmosphere scientist at Colorado state university who co-chaired a United Nations panel on stratospheric ozone" (2007 to 2015).

<sup>7</sup> ibid

about 82% of the rise in radiating force over the decades.<sup>8</sup> Climate change causes an increase in heat extremes at national, regional, and global levels, causing drought and precipitation in some regions. There are risks to human health, livelihoods, food security, water supply, human security, and the economy due to melting ice and rising oceans by raising climate change. Global Warming results in polar ice sheets and glaciers melting. A combination of these changes will lead to an increase in water level, ensuing in flooding. The harsh atmosphere, precipitation, weighty rain, and different extreme weather events are much occurring, leading to floods and decreasing water quality, however, also decreasing accessibility of Water in some areas.

Consequences for most developed places are constant heat waves, forest fires (especially in Australia), and dryness. The Mediterranean is becoming hash, causing extreme dryness and wildfires. The Northern Part of Europe is getting considerably rainy, and floods may become common. While the developing countries are mostly affected as a result of the state's poor facilities, most of these countries rely on their natural resources, and only a little or no help is available for them to deal with the climate change situation.

Human's Health Risk Rate: The risk rate suffered in health results in an increase in some regions' death rate. As the waters are infected, it results in water-borne sicknesses and malady vectors.

Economic Loss: The injury to natural resources and human health significantly affects the country's economy. During 1980 and 2011, floods affected over 5.5 million individuals and caused more than €90 billion in direct economic losses.<sup>9</sup> The Agricultural and tourism sectors were notably affected.

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<sup>8</sup> ibid

<sup>9</sup> ibid

Risks for life in agriculture: When there is a climate change effect, many plants and animals struggle to adapt. Several lands, fresh, and aqua species will be affected. Some plant and animal species will not survive the temperature rise. Due to ill health, there is a high record of human death cases.

### **Case Study of States That Experienced Climate Change**

Many countries in different geographical areas were affected by climate change because of increased sea levels, growth in temperature, drought, burning of fossil fuels, bush burning, greenhouse effects, flooding, deforestation, and so on, exposing them to low income, agriculture loss, etc. This work will be discussing two of the countries from the different geographical area in the world as a case study below:

Australia experienced high temperatures leading to harsh drought, bush burning, and loss of properties in 2019, leading to thousands of animals' death due to some of the worst fires in its history<sup>10</sup>. Since the 21st century, Australia has been encountering consequences of climate change, leading to bush burning and misplaced land and animals. Australia's weather has gotten to almost one °C in ordinary annual temperatures, with warming happening twice for the past 50 years than within the preceding 50 years. To curb the effect of climate change, the government came up with a tax system that came out victorious by reducing Australia's carbon dioxide emission is 11% from 2008 to 2019.<sup>11</sup> The Abbot authorities later replaced the tax system on July 17, 2014, after much criticism. In Malcolm Turnbull's government, Australia attended the 2015 United Nations Climate Change Conference and adopted the Paris

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<sup>10</sup> Australia Fires, "A visual Guide to the Bush Burning Crises" (2014) [www.bbcnews< https://www.bbc.com/news/world-australia- 50951043.html](https://www.bbc.com/news/world-australia-50951043)< accessed 8 December 2020.

<sup>11</sup> *Climate Change*, "Big fall in electricity sector emissions since carbon tax" *Sydney Morning Herald*. (February 5 2014).

Agreement,<sup>12</sup> as Australia is presently facing the complex effects of climate change.

The country's challenge is to improve the environmental condition to guard its future through mitigation and adaptation. From the Climate Commission (now the Climate Council) report in 2013, intense heat waves, flooding, and bushfires striking Australia have increased by climate change. They will get too worse in the future in terms of their impacts on people, property, communities, and the environment.<sup>13</sup> The 2012/ 2013 summer was one of the difficult and hottest areas in Australia. The Australian government's statistics show that 247,600 homes are in danger of flood due to an increased in sea. Planning regulations and suggestions at the state level in the coastal areas, including this weather challenges adaptive process was introduced, for instance, the Western Australia State Coastal Planning Policy<sup>14</sup> created a sea-level rise benchmark for initiatives that address the problem over 100 years.<sup>15</sup>

A file launched in October 2009 by using the status members of weather exchange, water, and body, analyzing the effect of a one meter increase in sea level, pretty viable within the subsequent 30 to 60 years, concluded

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<sup>12</sup> The United Nations Frame Work on Climate Change: Paris Climate Conference, November 2015. - UN General Assembly, United Nations Frame Work Convention on Climate Change: resolution / adopted by the General Assembly, 20 January 1994, A/RES48/189.

<sup>13</sup> Australia for a sustainable future, "Australian Summer of 2012 to 2013 was the hottest ever" (2012) <[https://www.greenlivingpedia.org/Australian\\_summer\\_of\\_2012-2013\\_was\\_the\\_hottest\\_ever.html](https://www.greenlivingpedia.org/Australian_summer_of_2012-2013_was_the_hottest_ever.html) > accessed 8 December 2020.

<sup>14</sup>Wikipedia, "Effect of Global Warming on Australia" <[https://en.wikipedia.org/wiki/Effects\\_of\\_global\\_warming\\_on\\_Australia.html](https://en.wikipedia.org/wiki/Effects_of_global_warming_on_Australia.html) > accessed 8 December 2020

<sup>15</sup> Glavovic, Bruce; Kelly, Mick; Kay, Mick, Travers and Aibhe: *Climate Change and the Coast, Building Resilient Communities* (Boca Raton, FL: CRC Press 2014). p.257.

that most of the properties around Australia such as eighty thousand homes might be inundated. The collective fee of these houses will be anticipating at one hundred fifty-five billion dollars. A report released in October 2009 by the Standing Committee on Climate Change, Water, Environment and the Arts, studying the effects of a 1-meter sea-level rise, quite possible within the next 30 to 60 years, concluded that around 700,000 properties around Australia, including 80,000 buildings, would be overpowered.

The collective value of these properties estimating at \$155 billion<sup>16</sup> as a result of climate change, the country's agricultural practice reduced to 22% from 2000-20017.<sup>17</sup>

According to the Bureau of Meteorology, the average drought that occurred many years ago is once every 18 years. The deficit was so extreme that the country had to give restraint in water use to sustain the population. As of 2009, the Saturday bushfire started after a period of hot weather resulting in the loss of 173 lives<sup>17</sup>, destruction of 1,830 homes, and the number of homeless was over 7,000 people<sup>18</sup>. The fire was burning re-awoke the concern of many nations towards climate change and the need to reduce fossils' burning. Calling various medical practitioners to keep people away from disasters and provide "emergency health care." As a result of the bush burning, heavy smoke travelled far too, filled the atmosphere, causing a delay in many flights, to an extent the Prime Minister Scott Morrison flight was delayed for an hour.<sup>19</sup> Summer from 2013 to 2014 changed into hotter than average for many

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<sup>16</sup> Victoria, "Victoria's Stormy Forecast", *Herald Sun* (Oct, 28, 2009).

<sup>17</sup>National Victoria, Black Saturday Report tabled  
<<https://www.theage.com.au/national/victoria/black-saturday-report-tabled-20100731-11095.html> > accessed 8 December, 2020.

<sup>18</sup>Australian News, Australia Bushfire  
(2019) < <https://www.abc.net.au/news/2009-02-13/more-than-1800-homes-destroyed-in-the-bushfire-2951926.html>>accessed 8 December 2020.

<sup>19</sup> Higgins Eoin, "Everything Is Burning!: Australian Inferno Continues, Choking off Access to Cities across Country". Ecowatch (23 December 2019).

Australia each Victoria and South Australia noticed record-breaking temperatures. It was so hot that at night time, the weathers were much warmer than standard, as few nights failing to drop underneath 30 °C typical.<sup>20</sup> The hot weather became the third-most up to date on Victoria's document, fifth-warmest on record for brand new South Wales and 6th-warmest on file for South Australia.<sup>21</sup> Of no doubt, it is a result of the effect of climate change. In line with the 2014 event, it became known that temperatures would possibly increase to 1.5 °C by 2030.<sup>22</sup> To adapt to the country's heat wave situation, the resident alternatively sought technology that will be of significant advantages, such as air conditioners in homes. The increase in these uses leads to more consumption and electricity demand, bringing pressure on electricity generation and transmission networks and resulting in load shedding.<sup>23</sup> The January 2019 period was the freshest in Australia, with temperatures exceeding 30 °C (86 °F). 2019 to 2020 Australian bush burning seasons, become Australia's worst season ever document.

In Kenya, UNEP's statistic, Kenya has been experiencing intense ranges of climate change for past years, which is caused by the following elements: The Kenyan Meteorological branch detailed that its constant gas release affected the climate. The temperatures have risen to 4.5 tiers Celsius due to an increase in carbon due to industrialization and commercial services. From records, the temperature will keep growing.

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<sup>20</sup> Australian Government, Burea of Meteorology, State of the Climate (2014) < <http://www.bom.gov.au/state-of-the-climate/2014/.html> > accessed 8 December 2020.

<sup>21</sup>Australian Government, Burea of Meteorology, Climate Current Season on Australia (2014)<<http://www.bom.gov.au/climate/current/season/aus/archive/201402.html> > accessed 8 December.

<sup>22</sup> CSIRO report says, "Australia getting hotter with more to come". *ABC Online*. (4 March 2014).

<sup>23</sup> Electricity supplies under pressure due to heat wave, energy market operator warns *ABC News*,( 29 November 2020).

Although Kenya is underdeveloped like other developed countries, some activities lead to a high increase in fuel fossils, such as the boom in 2nd- hand vehicle imports. Most of these vehicles are old, and their usage contributes to the burning of fossils

In 1990 and 2005, Kenya lost greater than 5 percent of its total forest area coverage?<sup>24</sup> Summing up to more than 12 600 hectares of forest every year in the record of loss Kenya experienced.<sup>25</sup> The leading causes of this deforestation are domestic uses, production uses, and charcoal production, releasing gas into the atmosphere. Forests absorb the carbon released in the atmosphere by soaking the process and releasing oxygen into the atmosphere. They also control the ecosystem as they are good at changing the microclimate. As a result of the high rate of deforestation, there was a heavy outpour of rain and extreme flood in some cities in Kenya, leading to the destruction of lands and properties.

Climate change is possibly the uttermost widespread environmental problem. It threatens economic progress, individual health, food security, commercial activities, and the ecosystem. These consequences tampered Kenya's government economy from turning into a prosperous one and providing adequate living conditions for its residents. Kenya is prone to climate changes because its economy mainly depends on agriculture and tourism, which are stimulators of climate change. Including the country's slow adaptive potential to climate change. Kenya is one of the good African countries known for its sound tourism system because of the abundance of the wild animal, which is lion, elephant, leopard, cheetah, buffalo, etc., attracting tourists from various parts of the world to Kenya. Therefore, climate change that affected the ecosystem and the lands led to the reduction of these animals, which caused a decline in tourism.

<sup>24</sup>An introduction to man-made climate change <<https://causes-climate-change-kenya-world.html> > accessed on 8

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December 2020.

<sup>25</sup> ibid

Many infected water bodies caused various sicknesses and diseases due to unhygienic water consumption and an unsuitable environment. Most of the disorders which affected people are cholera and malaria. Cholera affected them due to inadequate sanitary facilities and malaria from mosquitoes, breeding from accumulated floods in the environment.

The following are the areas that are greatly affected by the consequences of climate change in any environment, ecosystem, coastal zones, health, Water, populations, and food security. African countries are much prone to these effects due to a lack of finance and useful adaptive measures.

For KENYA's government to curb the risk of climate change, following the provisions of the United Nations Framework Convention on Climate Change (UNFCCC),<sup>26</sup> it created the National Climate Change Response Strategy (NCCRS) Climate Change Action Plan.<sup>27</sup>

### **The Emergence of International Environmental Law**

Soft laws are an international character that is not binding but is a crucial regulating source in society. They are in operation but are not legally essential like rigid laws. The existence of soft law is a result of the current lawmaking process. International environmental law is an example of soft law. One of the challenges encountered in weak laws is the implementation process. Its rules are not binding as it is mainly the existence and nature of the non-governmental body within the state and the states. The Rio conference is a soft law type of international environmental regulation. This law tends to transform into hard law by recommendation and declaration, also through state practice, enacting it as law.

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<sup>26</sup> United Nations, Peace, Dignity and Equity on a healthy planet <<https://www.un.org/en/un-chronicle/2020-covid-19-and-climate-agenda.html> > accessed 8 December 2020.

<sup>27</sup> Government of Kenya, "National Climate Change Response Strategy" (April 2010).

Soft law is a handy alternative in dispute negotiations where binding commitments have failed, especially in political and financial agreements. Yet, the parties must rely on something for bargaining for the moment. Soft law is flexible and serves as a fast means of commitment than customary law's slow process.

In environmental matters, Soft law has been essential in regulating areas where the states have been slow in implementing environmental discipline to stabilize the environment. It is additionally vital in the area of global monetary regulation and global sustainable improvement. Soft law is essential in man's useful resource administration associated with gender equality, range, and different subjects (health and protection, for instance). In social matters, so-called 'binding' laws often leave much space for discretion and interpretation, whereas sometimes, 'soft law' can be imposed by influential stakeholders on their suppliers<sup>28</sup>

The U.N. establishment has led the acceptance of global environmental policies that head towards soft law. The establishments control the relationships among states and international communities. However, the vital position of non-governmental establishment complements the existing intergovernmental structure by developing inter-state programs that will review the public interest. Environmental strategists have opted for gentle regulation due to the fact of the different elements in the community. The underdeveloped nations' needs on the worldwide environmental plans had made it indispensable to adapt and reassess the numerous global standard norms. Elaborating on the project was not made when these nations had been no more extended section of the international

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<sup>28</sup> Klarsfeld, A, & Delpuech, "C. La RSE au-delà de l'opposition entre volontarisme et contrainte: l'apport de la théorie de la régulation sociale et de la théorie néo-institutionnelle. *Revue de l'organisation responsable*" (2008) pg 3(1), 53-64.

environmental safety team<sup>29</sup>. These states united amongst themselves to benefit from the "soft" devices like resolutions and international bodies' guidelines to adjust a range of policies and ideas of the world felony order<sup>30</sup>. The underdeveloped and creating states choose gentle regulation policies because they appear pleasant when contrasting with the challenging regulation principles. The other thing is that the professionals select soft law to consist of the international economic system's speedy creation with growing nation interdependence. Utilizing current practices by using the countless advances of science and technology leads to stimulating the style. The conditions explained that environmental law needs a generally accepted plan to achieve its objectives. Thus, the phenomenon needs the well-timed introduction of the current global regulation plan as bendy and relevant to every stage of success reached by technology improvement. On the other hand, global regulation related to the safety of human surroundings existing a law part location where smooth rules have dominated.

### **Stockholm Declaration 1972**

The U.N. human-environmental conference held at Stockholm from 5<sup>th</sup> - 16<sup>th</sup> June 1972, following the U.N. general assembly resolution 2398 (xxiii) of December 3, 1968, was the first U.N. conference on environmental matters. One hundred thirteen states were in attendance were U.N. members except for USSR, Cuba, and other socialist countries that were not in attendance.

In the conference, they adopted the 26 principles to keep and build the human environment with an action plan consisting of 109 Re

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<sup>29</sup>S. CASS, "Preferences and Rational Choice: New Perspectives and Legal Implications: Beyond the Precautionary Principle" (*University of Philadelphia Law Review* 2003) 1003.

<sup>30</sup> C, Lynton, *Environmental Policy: Transnational Issues and National Trends* (Westport: Quorum Books, 1997).

communications. The guides are basing on the document written by the committee in charge of preparation for the conference.

The Stockholm declaration concerned environmental issues as an international cover. It began a discussion between the developed and under-developed countries based on the economic growth and environmental pollution and the people's standard of living.

One of the relevant topics discussed is pollution, and the two most important principles governing such situations as principles 21 and 22. Some of the environmental goals set to achieve in the declaration are to attend freedom of nature, protect and encourage a healthy environment for the other generations (sustainability goal), etc. To achieve these goals, the states, communities, cities, institutions will be solely responsible, and their responsibilities are at all levels.

### **1992 Rio Declaration**

UN meeting was held at RIO Janero from 3 to June 14, 1992, to reform the Stockholm declaration on the society. The goal was to establish a well- balanced relationship by creating a level of cooperation between the parties setting up societies to develop agreements to protect the environment and the people.

This declaration contains 27 principles in a document with 175 signatory countries. In the principles, sustainable development addresses human health and is productive alongside cooperating with nature, and the states will also enact environmental legislation<sup>31</sup> . The polluter pays principle is also considered in the declaration.

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<sup>31</sup>A CONF.151/26/VOL.1. Rio Declaration on Environment and Development 1992/, Article 11.

Generally, the principles explained the relationship among states, the relationship between the countries and conditions, and environmental and development matters.

### **Johannesburg Declaration**

At the World Summit on Sustainable Development (WSSD)<sup>32</sup>, the 2002 Earth Summit adopts the Johannesburg Declaration. In this summit, the parties agreed on the planning and implementing the world summit on sustainable development.<sup>33</sup> In making this declaration, the parties relied on the early words that are Stockholm and Rio. These declarations aimed to focus on a condition that poses global threats to people's sustainable development. Such as malnutrition, armed conflict, illegal dues, problems, organized crime, church hyper, aim trafficking, natural crises, terrorism, discriminators, HIV/AIDS, malaria, etc.

The conference's discussion was how development resulted from industrialization and technology harmful to the environment, also, addressing human rights that are affected by an unhealthy environment.

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<sup>32</sup>United Nations, Department of Economic and Social Affairs, Sustainable Development <<https://sdgs.un.org/publications/issues-brief-13-sustainable-low-carbon-transport-emerging-and-developing-economies.html> > accessed 8 December 2020.

<sup>33</sup>Johannesburg Declaration on Sustainable Development, Chapter 1, Resolution 1, Johannesburg, September 2002.

## Paris Agreement 2015

The Paris agreement is the only legally binding international U.N. treaty under UNFCCC; it was adopted by 196 countries in Paris in 2015 and<sup>34</sup> 2016, with 29 principles.

The aim is to keep global warming between 2°C preferable to 1.5°C. To implement such, it requires economic and social transformation to face climate challenges now. In the future, countries aim to reach global peaking of greenhouse gas emissions as soon as possible to achieve a climate-neutral world by mid-century<sup>35</sup>.

Just as the other environmental declarations and legal principles and soft laws, which are not binding, for the first, there was an international environmental agreement that became binding, bringing nations together to agree on a unified term to fight climate change effects on the environment.

To achieve excellent help for developing or underdeveloped countries, the agreement made a provision for finance, technology, and capacity-building support<sup>36</sup>, following the aim of the deal, which is to declare global warming seen in article 2, and enabling the implementations of the UNFCCC through:

(a) Making the temperature below two °C working hard to reduce the temperature to 1.5 ° to reduce climate change.

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<sup>34</sup>United Nations Climate Change, Paris Agreement < <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement.html> > accessed 8 December 2020.

<sup>35</sup> The United Nations Frame Work on Climate Change: Paris Climate Conference, November 2015. - UN General Assembly, United Nations Frame Work Convention on Climate Change: resolution / adopted by the General Assembly, 20 January 1994, A/RES48/189.

<sup>36</sup> ibid

(b) Providing help to adjust and relate with the effects of climate change and to secure agricultural products to avoid threats to food production

(c) Constant financial flow to achieve a nominal rate of greenhouse emissions and a good climate.

Paris agreement not being the first legally binding instrument, also it recognised human rights as seen in the preamble:

‘Acknowledging that climate change is a common concern on humankind, parties should, when taking actions to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the right to indigenous people, 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’<sup>37</sup>

This clause as well as article 2 of the agreement suggest to the states an adaptation approach to provide, respect, promote and fulfilment of human rights including indigenous right, and sustainable development right and right to health and to ensure gender equality, full and equal participation of women,<sup>38</sup> while handling the solutions to the effects of climate change.

## **UNFCCC ARTICLE**

This article is a multilateral environment agreement drafted on May 9, 1992, signed on 4-14 June 1992 and June 20, 1992 - June 19, 1993, and became effective on March 21, 1994, with 197 parties and 154 signatories. The agreement was to address climate change matters at the United Nations Conference on Earth and Development (UNCED). In the

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<sup>37</sup> Paris Agreement (adopted 12 December 2015, entered into force 4 November 2016) No. 54113 preamble.

<sup>38</sup> Sam Adelman, *Human rights in Paris Agreement: Too little, Too late: Transnational Environmental law*, Cambridge University Press (2017)

year 2020, the signatories became 197; the aim was to discuss how greenhouse gas concentration should be reduced and balanced for a healthy environment. In the article, the developed nations are of 38 states. They are to create a national plan for carrying out mitigation measures against climate change.<sup>39</sup> The developed countries with extraordinary monetary duties incorporate the entirety with the first set of developed nations except for those on the move to popular government and marketing. This second set of developed countries gives extra monetary assets for the expenses caused by developing nations in consenting to their commitment to creating public inventories of their emanations by sources and their expulsions by sinks for all ozone harming substances not constrained by the Montreal Protocol<sup>40</sup>.

### **Non-Governmental Organizations**

According to the U.N. environmental organization, the following are registered NGOs from different countries and regions<sup>41</sup>.

The Action Aid International in Africa.

Adee Foundation in Asia and the Pacific region. Adelphhi

Research in Europe region.

Erosion Technology and Concentration group in America. Anglican

Consultative Council of United Kingdon in Europe. The Nature

Emirates Wildlife Society in Asia.

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<sup>39</sup> The United Nations Framework Convention on Climate Changes: A Commentary, 1993. Retrieved 15 December 2020. - UN General Assembly, United Nations Framework Convention on Climate Change: resolution / adopted by the General Assembly, 20 January 1994, A/RES/48/189.

<sup>40</sup> Ibid.

<sup>41</sup>UN environmental programme, List of Accredited Organizations < <https://www.unenvironment.org/civil-society-engagement/accreditation/list-accredited-organizations.html> > accessed 15 December 2020.

Carbone Guinea in Africa and so many of them.

These registered NGOs are mainly responsible for identifying and researching environmental matters. They carry out various duties, but listing few, such responsibilities are:

Carrying out researches on environmental risks and challenges, they have direct access to the people living in places affected by environmental disasters. Their direct access enables them to study the environment effectively and bring a quick solution to tackle the challenges.

They directly educate people on the available measures to take to reduce the risk.

The NGOs mainly draw the attention of the government to the environmental needs of the people. In all their numerous functions, the NGOs still face some challenges, such as non-recognition.

The government does not legally recognize these actors; there is no legal framework binding them, so their activities are not practical and recognized by the government. To encourage them, the government should maximally support and fund them since they are the closest arm to the people.

## **CHAPTER TWO: CLIMATE CHANGE AND HUMAN RIGHTS**

### **MODERN INTERNATIONAL LAW AND HUMAN RIGHT**

Modern international laws are international laws or rules guiding or binding on the people or regulations, solidifying states' relationships. It is usually enforceable in international courts or arbitrations. Sometimes it is adopted by states into their domestic laws and binding on such states' citizens. In such a situation, the international laws adopted are enshrined in the state's constitutions and become binding.

Hugo Grotius is the father of modern international law. Just like other philosophers, Hugo believed in law made from natural law. Still, he thought that the natural law was out of universal reasoning, common to man (REASONS), and not imposed by a being above. These laws were in existence before some states came together either for politics, purpose, business, or relationship enacted these laws to bind them together in the form of international laws and rights. In the 19<sup>th</sup> century, international laws were together. The laws were treated like other national laws even in the implementation by lawyers, until the twenty century when it had two categories of private and public international laws.

Human rights are inalienable rights gotten as a result of birth and are universal. These rights have been existing and practiced as customary law before it was internationally adopted and united as an international human rights law in a legal document, adopted and signed by countries bound by

these laws. An example of an international human rights legal document is the UDHR (the Magna Carta). Hence, when the states become a signatory to any international human rights document, the state by so doing has been committed to protect, respect, and fulfil those rights.

### **Sources of International Human Rights**

Human rights are the basic rights and freedoms to which all humans are entitled as recognized and protected by the core international human rights instruments. According to religion and politics, there are so many ideas on the history of human rights; in summary, the first date to experience was in 539 before Christ. Cyrus, the first king of Persia, fought and won mighty Babylon, set the captives free, and returned to their respective homes. The people had their freedom to the choice of worship and treating every race equally.

The king's decree regarding human rights was documented in a baked clay cylinder in Akkadian Language with Cuneiform Scripts.<sup>42</sup> Today, the cylinder is called the CYRUS CYLINDER. The documented rights in this cylinder were translated into various languages and adopted into different human rights documents by the United Nations; for example, the Magna Carta content is the first generation of human rights. The three generations of human rights formed from the universal document of right UDHR 1948 are;

**THE FIRST GENERATION RIGHTS:** Civil and political rights such as the right to life, equality before the law, freedom of speech, fair trial, religion,

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<sup>42</sup>United for Human Rights, A brief history of Human rights < <https://www.humanrights.com/what-are-human-rights/brief-history/html> > accessed 15 December 2020.

vote rights as enshrined in the international covenant on civil and political liberty.

**THE SECOND-GENERATION RIGHTS:** The economic and socio-cultural rights such as the right to food, housing, health, employment, education, own property, and security as enshrined in the international covenant on economic, social, and cultural rights.

**THE THIRD-GENERATION RIGHTS:** The collective or solidarity rights such as group and collective rights, self-determination, economic and social development, natural resources, communication rights, cultural heritage, intergenerational equity and sustainability as cultural heritage, intergenerational equity, and sustainability as enshrined in the African Charter on Human and people's Rights.

In 1948 U.N. General Assembly adopted the UDHR. In 1966 the assembly adopted the optional protocols: the ICCPR, ICESCR, and the bill of human rights. After the establishment of the U.N., human rights laws were an excellent means of achieving democracy. Democracy, based on the rule of law,<sup>43</sup> is a means to earn international peace and secure economic, social programs and development and respect for human rights, which are the pillars of the United Nations' mission.<sup>44</sup>

Democracy is the practice of the rule of law that incorporates the people's will in society. Hence, people's rights are recognized and considered at

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<sup>43</sup>United Nations Human Rights Office of the High Commissioner, GoodGovernance<<https://www.ohchr.org/en/issues/Development/GoodGovernance.html> > accessed 8 December 2020.

<sup>44</sup> United Nations, “peace dignity and equality on a healthy planet” (13 November 2020)<https://www.un.org/en/peace-dignity-and-equality-on-a-healthy-planet.html> accessed 8 December 2020.

international levels through international human rights documents. In protecting and implementing human rights after establishing law, creating instruments to implement the law and enforce it to protect the individual's right when breached, the serving council deal more on human rights matters where these are conflicts. The office of the High Commission for Human Rights which have their headquarter in Geneva with regional offices promotes and protects human right, the office have the right to look into human rights matters and give report, as well the international courts and human rights lawyers implement the laws.

Another importance is that the laws unified the nations, thereby enhancing the bonds and relationship between one country and others that are signatory to the treaties. As earlier said, these rights are in international documents known as agreements or treaties adopted and bind on the signatory countries. The treaties are created based on the goal or mission of the establishment. It also established bodies or instruments for enforcement. Examples of international human rights treaties are:

The international covenant on civil and political rights (ICCPR)

The convention on the elimination of all forms of discrimination against women (CEDAW)

The international covenant on economic, social, and cultural rights(IECESCR).

The international covenant on the eliminating of all forms of racial discrimination (CERD)

The covenant on the right of a child (CRC)

The convention on the right of persons with disabilities (CRPD)

The convention against torture and cruel, inhuman, or degrading treatment or punishment. (CAT)

Some of these treaties are supplement with optional protocols such as:

The optional protocol to the international covenant on civil and political rights establishing a mechanism for individual communication.

The optional protocol to the convention on the rights of the child on the involvement of children in armed conflict.

The optional protocol on the rights of the child on the sale of children, child prostitution, and child pornography.

The optional protocol on the convention on eliminating all forms of discrimination against women creating an instrument of communication.

The optional protocol to the covenant on a person's rights with disabilities creates an instrument of communication. Any country that ratifies any of these covenants or treaties undertakes to comply with the provisions from the above.

According to the Vienna Convention on the law of treaties, the specific objects and interests of these treaties are; common interest, rather than interest of their own; objective character to protect the individual's rights, and finally for the common good. See the European Commission of Human Rights on the case of Austria V Italy.<sup>45</sup>

### **Why Climate Change Silence On Human Rights.**

Most of the environmental policies created to protect the environment are soft laws. They are not binding, and human rights issues are not considered by them knowing that most of the violations of human rights such as the right to health, food, an adequate standard of living, life, etc are seriously and deeply affected by climate change from wildfires bush burning, hurricanes and the rest. During the United Nations Climate Summit in Katowice (dubbed COP24), some leaders pointed out that the

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<sup>45</sup> (1961) ECHR No 788/60

summit has not given enough room to human rights. When the Paris agreement was signed, some of the parties listed a provision acknowledging the respect and protection of human rights by nations, which was omitted in the summit.<sup>46</sup> Sebastien Duyck, a senior attorney at the Centre of International Environmental Law, reacted in his statement released at COP24 on the silence on human rights by stating “immediate action is necessary to avoid the suffering of millions of people and the collapse of ecosystems and to be truly effective that action must be rights- based and people-centred. At a time when every human right is threatened by the accelerating climate crises, it is unacceptable for negotiators to be backsliding on the promises of Paris agreement”.<sup>47</sup> Climate change is the most scientific effects on the ground, hence a big hit on human rights as enumerated. Knowing that most of the environmental laws are non-binding, it seems complicated and impossible to enforce them when violated by any party, this affects the human rights violated from the environmental activities from being attended to.

Some proponents of climate change's effects on human rights tried to address the problem of neglecting human rights, through an environmental approach by pointing out how climate change undermines human rights achievement. When the environment is protected, there is a position of achieving the human right, e.g., right to life and health, as seen in UDHR Article 3 and Article 6(1) ICCPR (right to life), Article 12 (1) ICESCR (right to mental health).

Another approach they used is the human rights-based approach. In this approach, the aim of achieving protection of human rights will help achieve the goal of protecting the environment.

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<sup>46</sup> Paola Rosa-Aquino, ‘Climate Change is a human right issue’ (Grist, Dec 10, 2018) < <https://grist.org/climate change + equity> > accessed 3 may 2021.

<sup>47</sup> Ibid

From the other angle, according to the opponents, these rights are neglected most times and undermined by the states from performing their duties to fulfil, respect, and protect human rights, because there is no binding force on environmental laws. For example, the right to develop has no binding power and no support among the developed countries; thus, the government undermines human rights affected by not attending to them and violating the rights. Government responsibilities on human rights are silent in climate change cases because, in an argument, there are no identified violations of human rights caused by climate change. There is a big difference between undermining and violations. The human rights framework required identifiable violations, identifiable harms attributed to the violations, and remedies provided by the government to the individuals.

Furthermore, it is hard to establish responsibility committed by actors who are outside the territory. In human right law, when rights are violated the government have responsibility to redress. But climate change impact is mostly caused by private and public actors who are not within the state and it is not easy for human right to get across international bodies to impose obligations.<sup>48</sup> There was also right conflict issue, where the right of individuals affected by climate change impact, conflicts with the actors right. For example economic actors also have their right to properties or peaceful enjoyment of their possessions. The right to property have been given a wider scope of interpretation by the International Tribunals, in assertion includes those who have license to carry out activities that harm the environment.<sup>49</sup> This right with other rights like right to culture maybe limited for public good, which may result to struggles over exactly where

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<sup>48</sup> Stephen Humphery, 'Human Rights and Climate Change' Cambridge Press University (2009) pg 5.

<sup>49</sup> Stephen Humphery, 'Human Rights and Climate Change' Cambridge Press University (2009) pg 7.

line should be drawn in such case.<sup>50</sup> As a result of this, the silence has been maintained to date.

### **Impact of Climate Change on Human Rights**

Climate change as a phenomenal occurrence has many negative impacts on people's human rights in the environment, in considering it under this section. Its effects on climate change on the environment and human rights are an important subject matter.

**INCREASE IN TEMPERATURE.** As a result of the release of fossils, carbon dioxide, etc., and many industrial activities leading to coral bleaching and disease vector change.

**EFFECTS:** Cardiovascular diseases, respiratory disorders, and other chronic diseases, a threat to fishing, a high level of spread of diseases threat on tourism, etc., all these effects are a threat to the human right to life, health, subsistence, and an adequate standard of living.

**EXTREME WEATHER EVENTS:** This is as a result of higher intensity storms, sea surges, cyclones or hurricanes, and floods.

**EFFECTS:** Reduction in populations, contamination of water supply, damages on infrastructures which leads to delay in medical treatment and causes food crises, psychological distress, increased transmission of disease, damage to agricultural lands, disruption of education services, injuries to the tourism sector, massive property damages, etc., they are a

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<sup>50</sup> Ibid.

threat to life, health, means of subsistence, an adequate standard of living, education, and property.

**SEA LEVEL RISE:** Leading to coastal erosion, exacerbate sea surges, inundate low-lying areas, sanitization of coastal aquifers, small low-lying island nations in the Pacific Ocean such as TUVALA and KIRIBATI.

**EFFECTS:** Taking people to refugees (dislocation of populations), loss of land, drowning, injury, contamination of water supply, damage of coastal infrastructure, loss of agriculture produce a threat to tourism, etc., they are all threats to the right to life, self-determination, health, and means of subsistence, the standard of living, property, and culture.

### **The Human Rights Dimensions on Adaptation**

Having seen the causes, consequences, and effects of climate change in environmental and human rights, establishing some measures to curb the effects of climate challenge on human rights is a prolonged problem. They are:

1. Adaptation method
2. Mitigation method

**ADAPTATION METHOD:** The nature of the climate system and the long-term effects of the increase in GHG concentrations, prolonged climate change over several decades, and therefore adaptive strategies are keys to protecting the vulnerable populations. This adaptive strategy is the state's obligation to respect, protect, and fulfil human rights towards climate change effects.

**RESPECTING HUMAN RIGHTS:** The state must refrain from interfering or limiting the joy of human rights. Also, the state has an obligation not to take any measure that will violate a given right (either through organs or agents). In *GUERRA V ITALY* February 19, 1998, reference number 116/1996/735/932, the European Court of Human Rights adjudicated upon the case of applicants living in Manfredonia Italy, a kilometre away from a chemical factory producing fertilizers owned by Unichem. Following the accidents due to the plant's malfunctioning, on one occasion, 150 people were admitted to the hospital with acute poisoning because of the release of tones of a substance containing toxic arsenic in the environment. The applicants complained that the lack of state measures to reduce pollution levels and significant accident hazards was in breach of the right to respect for their lives and physical integrity. The court finally held that Italy violated the obligation concern; secure the applicant's right to private and family life in breach of Article 8<sup>51</sup> ECHR. This obligation is a negative responsibility while the rest are positive.

**Protecting Human Rights:** Protecting the people's rights from the violent act of the third party. In this obligation, the state has both international and national duty to intervene to prevent third parties' actions threatening human rights and punish actual violations. This protection ensures that persons within the state's jurisdiction do not suffer human rights violations from a third party; else, the state will be responsible for the action. In this light, they are compelling the state to adopt pre-emptive measures to ensure that violations of human rights by a third party are not allowed and to punish any breach of freedom from the third party.

In the domestic case of *Massachusetts v Environmental Protection Agency (EPA)*, 594 U.S (2017), The Inuit introduced a brief on climate

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<sup>51</sup> InfoMEA < <https://www.informea.org/en/literature/freshwater-law-and-governance-global-and-regional-perspectives-sustainability.html> > accessed 8 December 2020.

change's arctic impact. The American Supreme Court reversed the decision of the Appeal court from the District of Columbia. It held that EPA is liable for failing to adequately regulate GHG emissions from cars as air pollutants under the environmental Protection Act 1994, thus contributing to global warming and affecting sea levels at the coast of Massachusetts. Although the EPA was aware of the potential danger resulting from the GHG emissions and had the authority to restrain them, they failed to restrain them and take appropriate measures to avoid part of the damages. Also, in *Lopez v Spain* 16798/90 ruled on Dec 1994, the ECtHR held that the treatment of liquid and solid waste by a tannery belonging to the limited company SACURSA built close to the applicant's home was in breach of Article 8 ECHR. The court held that prolonged noise and emission from the tannery required the relevant Spanish authorities to take steps to protect the applicants' right to private and family life by relocating or closing down the plants.

**Fulfilling Human Rights:** The state should proactively engage in activities that facilitate the greater enjoyment of human rights, for example in sea level rises, sea walls have been used frequently to stabilize Vietnam shorelines. Planting mangroves for storm surge protection costs almost 85% less than building and maintaining sea walls on dikes for this purpose. Mangroves also preserve wetlands, and the marine food chain supports local fisheries.

The state should also take appropriate measures to fully realize fundamental claims by setting up instruments such as Inspection Campaigns, Environmental Compliance Assurance, which support the fulfilment of objectives laid down in legal acts. And planning documents by enforcing the rules of law and providing proper feedback helps improve environmental policy and law.

International Convention on Civil and Political Rights (ICCPR) General Comment 31, "The positive obligations (to protect and fulfil) on state

parties, to ensure fully discharge of the rights, wherefore the states protect the individuals not just against violations of covenant right by its Agent, but also against acts committed by private persons or entities that will impair the enjoyment of Covenant rights in so far as they are amenable to application between private persons<sup>52</sup> and entities.

For state obligation, according to Article 8 of the ILC's 2001 which provides that the conduct of a "person or a group" of persons can be imputed to the state if the conduct is according to the instructions of, or under the direction or control of the state in carrying out the conduct. This implies that the state will be held responsible for the state agency's action. For these questions like "what if a non-state agent or private person violated the right will the state still be held responsible? Generally, the state is accountable for ICCPR provision, but this varies according to the countries and treaties. For example, in India, the states created a human rights obligation on the private or non-state actor.

Regarding the negative obligation on climate change conditions, especially emission of GHGs by Private Corporation, the state should instead be held co-responsible with the private person under the responsibility to respect. See the OGONI land dispute. Human rights instruments for executing human rights matters are the African Commission on Human and Peoples Rights for African countries, the Inter- American Commission on Human Rights for American countries, and the Council of Europe for European countries.

According to the oxford dictionary, mitigation is the action of reducing the severity, seriousness, or painfulness of something. It is possible to mitigate the impact of the effect of climate change through the following

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<sup>52</sup>MENA Report, "Philippines : De Lima Bats for Human Rights Subjects in Schools.", Albawaba (London Nov. 2019).

ways; the UNFCCC and Kyoto protocol requires countries to reduce their GHG emissions using various mitigation strategies such as Clean Development Mechanism (CDM) and joint implementation, allowing the developed countries to meet their treaty obligations by investing in developing countries.<sup>53</sup> Reducing emissions from deforestation and forest degrading programs (REDD+) is another mitigation measure that can provide funds to developing countries, indigenous people, and forest- dependent communities involved in forest conservation.

### **International Law Observation on Climate Change**

The previous topic can be deductively put that adaptive measure is the best measure in curbing climate change because; climate challenge is a prolonged issue. Adaptation comprises efforts by states, regional governments, civil society actors, and individuals to adjust natural or human systems in response to actual or expected. The Adaptation law aims to increase the capacity of humans, society, other species, and ecosystems to adapt to the continued transformation of our environment.

Politically, economically and socially marginalized groups within developing states have the lowest adaptation capacity, hence the need for international intervention to enable them to adapt to the effect of climate change. The UNFCCC established procedural requirements for adapting to climate change, directing the state parties to facilitate adequate adaption to climate change through the formulation, implementation, and publication of National Adaptation measures. The treaties also highlighted areas of focus for adaptation, including the management and protection of coastal zones, water resources, agriculture, and land susceptible or flooding.

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<sup>53</sup>The Centre of International Environmental Law, "Climate Change and Human Rights a Premier" <[http://www.ciel.org/Publications/CC\\_HRE\\_23May11.pdf](http://www.ciel.org/Publications/CC_HRE_23May11.pdf).html > accessed 6 December 2020.

Recently, the 2010 CANCUN ADAPTATIVE FRAMEWORK (CAF) invited state parties to the UNFCCC to undertake various adaptation measures, including the formulation of national adaptation plans. Two years later, in Doha, the parties approved the<sup>54</sup> adaptation committee's three-year work plan, an essential step in promoting coherence in adaptation under the convention and providing technical support and guidance to the parties. Nevertheless, the international community has struggled to facilitate the adaptation to the effect of climate change worldwide.

These adaptation measures are aligned with the concern of human security as climate change affects human security. The UNDP has recognized that human security includes food security, health security, and environmental security. The ASEAN Political-Security Community Blueprint, in corroboration, acknowledged that security has political, economic, socio-cultural, and ecological dimensions.

Finally, recognizing that climate change threatens global security and territorial sovereignty, according to Sir DONALD KING, the U.K. special representative for Climate Change stated that "international security has paid increasing attention to the security implication of climate change," as climate change is a far greater threat to the world's stability than International Terrorism. Therefore, this is a call for the international community as a collective obligation to involve adaptation measures against climate change threats, both at international, national, regional, and local levels. In summary, it is right to say that the implication of climate change in the globe is a threat to Human Security, International peace, and security.

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<sup>54</sup>Project topics < <https://www.projecttopics.org/evaluating-the-impact-of-environmental-law-and-policy-in-climate-change-mitigation.html> > accessed 6 December 2020.

## **Available Dispute Settlement**

Generally, most of our environmental laws are not enforceable in courts because of their soft law nature. Still, breaching human rights due to the effects of climate change, dispute settlement is available for the person whose right was breached, such as mediation, arbitration, conciliation, and adjudication.

### **MEDIATION**

Mediation is when an unbiased third party presides on an agreement between parties to solve a dispute. This process is done voluntarily by the parties, and the decision made is not compulsory binding on them.

The third party presiding over the matter is called a mediator, who must be impartial, disclosed all necessary information, and have a good knowledge of the case. Also, the mediator helps the parties come up with a particular conclusion and enlist a settlement.

### **ARBITRATION**

An agreement reached in arbitration settlement is called an AWARD and is binding on the parties and enforceable in the court.

In arbitration, the parties appoint their arbitrations, who usually are judges to represent them on their matters; they also nominate the third arbiter. An arbitration tribunal that handles disputes among the states is called an international arbitration or established adhoc. Recourse to arbitration implies that the parties have submitted to it in good faith.<sup>55</sup> Most of the agreements made provisions for the establishment of an arbitration tribunal, for example, the 1969 Oil Pollution Intervention Convention.<sup>56</sup> The permanent court of arbitration deals with many types of arbitration

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<sup>55</sup> Arbitration rules 2021, entered into force 1 January 2012 ART 6.

<sup>56</sup> Art VIII and Annex, Chapter II.

proceedings.<sup>57</sup>In arbitration proceedings, no direct rule is given by international law on arbitration proceedings; the processes, e.g., admissibility of evidence, are on the tribunals to decide.

ARBITRATION PROCEEDINGS: Mainly some tribunal observes their proceeding as follows; initiating the arbitration<sup>58</sup> both parties having an agreement to resort to arbitration and notifying it in writing at the stage. Appointment of arbitration<sup>59</sup> follows when the parties have appointed their arbitrators. Preliminary meeting,<sup>60</sup> at this stage, all relevant documents is submitted by the parties for proper evaluation. The parties seek claims and relief at this stage. At hearing<sup>61</sup> stage, arguments and evidences are made. A legal practitioner can represent any of the parties. At award stage<sup>62</sup> the final decision of the tribunal after hearing the matter is given, and it is binding on the parties.

## CONCILIATION

In the settlement of disputes, the first medium to put into consideration is conciliation. The body in charge of conciliation is called "conciliation is a commission," as provided in the law of the sea convention and other<sup>63</sup> laws. The third party who precedes the matter is called a conciliator. The difference between conciliator and mediator is that there is a statutory law regulating the former, precedent, and procedure rules while there is no law regulating the latter.

The conciliator must be impartial, fair, and confident at the end of the process. The parties choose to accept the term of settlement or refused it

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<sup>57</sup> The permanent Court of Arbitration (PCA) was established by the convention for the Pacific Settlement of International Disputes (1899). <sup>58</sup> Arbitration rules 2021, entered into force 1 January 2012 ART 4.

<sup>59</sup> Article 13 *ibid.*

<sup>60</sup> Article 15 *ibid.*

<sup>61</sup> Article 26 *ibid.*

<sup>62</sup> Article 31-36 *ibid.*

<sup>63</sup>NOAA Office of General Counsel, Maritime Zones and Boundaries <[https://www.gc.noaa.gov/gcil\\_maritime.html](https://www.gc.noaa.gov/gcil_maritime.html)> accessed 6 January 2021.

because it is voluntary. When they get the terms, they will be bound by them, and any of the parties can bring an action to court based on the agreed terms.

### **Monitoring and Enforcement Agencies**

Monitoring is the process of looking out to, checking up on, or observing the duty or activity placed on one's authority. To monitor is an action word that means the ability of one to keep the environment's situation.

According to the Longman dictionary, monitoring means carefully watching out and checking a situation to see how it changes over time.<sup>64</sup> Enforcement is the process of taking measures for people to obey a law. The word Implementation is an alternative word. To enforce is also an action word that means performing an act to make something happen or force people to obey. Enforcement takes place when people start to obey rules, laws, etc. The Agent is an organization or department, especially within a government sector, that does a specific work.<sup>65</sup> The two words are action words of performances. Therefore, environmental law agencies are those special groups' bodies or organization which can be a governmental organization or private organization that are in charge of watching and checking that people obeys and respect the international environmental laws and principles, to maintain a healthy environment.

Monitoring proceeds enforcement; if the monitoring agent proves that some people violate the laws, they will enforce any punishment according to the tribunal's agreement. The problem encountered in the monitoring and enforcement of treaties is that most developed countries that easily violate the treaty's provision will not be a signatory to them any longer. By

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<sup>64</sup> Longman Dictionary of Contemporary English (New Edition 2003), pg 1240

<sup>65</sup> Ibid – pg 34.

doing so, the treaty will no longer be binding on them, and the agencies will have no action against them. For example, in a situation where there is a provision on the gas emission rate from each state to curb the air pollution risk, the developing and more industrialized countries can violate the provision and emit more gases. To this end, the violating party could suspend the treaty and will no longer be bounded by it. However, some treaties like the Montreal Protocol for protecting the ozone layer<sup>66</sup> authorized trade sanctions against not only parties that are signatory but also against non-parties; to this extent, it is good to extend the monitoring and enforcement agent to this protocol to non-parties.

On the other hand, it is right to say that these enforcement agencies' goal is to ensure that the states comply with the treaties for the environmental benefit for environmental benefit enforcement and compliance mechanisms. Article 18 of the Kyoto protocol<sup>67</sup> calls on the parties at the meeting to approve the appropriate and effective procedures and mechanisms to address cases of non-compliance; adopting this mechanism in 2001 and called it the "compliance committee." The committee has two arms, the facilitative branch, and an enforcement branch.

The enforcement branch function is to administer punishment on parties not meeting up their commitment, while the facilitative branch function by educating and advising people to promote and obey their obligations and give them early warning before the violation.<sup>68</sup>

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<sup>66</sup> Montreal Protocol on substances that deplete the ozone layer, 16 September 1987 No. 26369 Art 3 and 4.

<sup>67</sup> Kyoto Protocol to the United Nations Framework Convention On Climate Change 1998, entered into force 16 February, 2005, No. 30822.

<sup>68</sup> 2021 United Nations Frame Work Convention on Climate Change, United Nations Climate Change< [https://unfccc.int/Compliance-Committee-of the Kyoto protocol](https://unfccc.int/Compliance-Committee-of-the-Kyoto-protocol), html> accessed 6 January 2021.

In the 1987 Montreal protocol, parties to the treaty establishing an implementation committee at the second meeting. It is a ten men committee with the duty to receive, consider, and report any party's submissions against the violating party.<sup>69</sup>

The committee acts as a negotiator between two parties in a dispute; in the end, it suggests measures that to take by the parties in case of non- compliance, which includes:

Appropriate assistance, Issuing  
cautions and Suspension.

The Montreal protocol growth establishes these mechanisms under other multilateral environmental agreements, including the 1998 based convention,<sup>70</sup> the 1996 protocol to the London convention.<sup>71</sup> The World Bank Inspection Panel as a monitoring agent, in September 1993, created an Inspection Panel to receive and review requests from any party that claims to have been affected by the bank's project, especially in environmental harm cases.<sup>72</sup> This panel became effective in 1994, consisting of the members who suggest the direct matter complained of showed proceeds investigation. There are many bank mechanisms established, which the affected parties or Individuals can seek redress

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<sup>69</sup> United Nation environment program 2020, Ozone Secretariat <<https://ozone.unep.org/taxonomy/term/523>, html > accessed 6 January 2021.

<sup>70</sup>COP Decision V//6, mechanism for promoting implementation and compliance of the Based Convention (10 December 1999) UNEP/ CH5/29.

<sup>71</sup>International Union for Conservation of Nature issues brief, marine plastics 2018 < [https://www.iucn.org/sites/dev/files/marine\\_plastics\\_issues\\_brief\\_final\\_0.pdf](https://www.iucn.org/sites/dev/files/marine_plastics_issues_brief_final_0.pdf).htm l> accessed 6 January 2021.

<sup>72</sup> Resolution of the Executive Directors No.IBRD93-10 and IDA 93-6, 22 September 1993.

when their rights are affected due to environmental pollution caused by the bank's activity.

ENVIRONMENTAL PROTECTION AGENCY (EPA): The EPA is a charge of enforcing the federal environmental laws; its enforcement procedure may be in administrative, civil, or criminal form against the parties who violate the law.

The EPA administrative procedure includes settlements or public projects requiring the violating party to carry out an action that will remedy the harm caused or pay compensation to the affected party. The vital aspect of EPA is that they determine liabilities and enforce the law. The agency can initiate civil actions by bringing an action in courts against the violators of environmental laws. On the other hand, they can begin criminal departments to punish the violators.

THE 1982 UNCLOS also included provisions on implementing pollution requirements from different sources and providing specifically for the states to enforce their laws and regulations adopted per the convention. The implementation of applicable international rules and standards<sup>73</sup> and the states should provide adequate compensation for damages caused by marine pollution by persons in their jurisdiction.<sup>74</sup>

International organizations, non-state actors, and states implement these measures in the international court, seeking international claims. In this aspect, on this note, enforcement ensures the fulfilment of international obligations or to get the decisions of international courts or tribunals. To this extent, any of the parties can invoke an action, depending on the

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<sup>73</sup> 1982 UNCLOS, UN General Assembly, Convention on the Law of the Sea, No. 31363, 10 December 1982, Art 213, 214, 216 and 22.

<sup>74</sup> Ibid Article 253(2).

nature and legal bases of the alleged violation, subject matter involved, and international legal obligation at issues.<sup>75</sup> States can primarily enforce rules of International Environmental Laws if they have "locus standii," as seen in the international law commission (ILC) article 2001, an "injured state."<sup>76</sup>

The International Court of Justice (ICJ) is another enforcement agency. It interprets the environmental laws, when necessary, and enforces them by ensuring that the violating party carries out this own obligation as stated by the law and issues relief measures on the affected party. The ICJ referred to as the world's court, is the U.N.'s principal judicial organ<sup>77</sup>, with its jurisdiction under Article 36(1) on their parties, depending on their agreements either by special arrangement or compromising clause in the treaty. Article 36(2) when the parties in dispute declare that they recognize the court's compulsory jurisdiction, which can be for a limited period. One of the environmental cases decided by ICJ is the "Fisheries Jurisdiction Case," where Spain challenged the enforcement of fisheries conservation measures taken by Canada in areas beyond its exclusive economic zone.<sup>78</sup>

However, outside these international agencies, states and individuals can bring up actions through any dispute resolution, in courts or tribunals against the violating party. In cases of violation of rights due to an environmental activity carried out by industry, government agency, or a person, the affected person must seek redress through an organization or legal representative.

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<sup>75</sup> Philippe Sands, 'Principles of International Environmental Law,( Second Edition), Cambridge University Press 2003, (Pg 182).

<sup>76</sup>Pg 183 Ibid.

<sup>77</sup> Pg 215 Ibid.

<sup>78</sup> Pg 217 Ibid.

## **CHAPTER THREE: SPOTLIGHT ON CORONAVIRUS PANDEMIC AS A RESULT OF CLIMATE CHANGES.**

### **Corona virus Pandemic**

COVID-19 results from the change in temperature as a result of climate change, leading to a change in Disease Vector Born disease (VBD). These infectious diseases are transmitted to humans by animals called vectors such as mosquitoes, rodents, flies, etc. The climate change effect caused the vectors or the disease they are carrying to spread more rapidly to new areas, putting people's health at risk.

In summary, COVID-19 PANDEMIC emerged from WUHAM in china, where it began to spread across. People contract this virus through personal contact with the carrier, from the liquids that come out from coughing, sneezing, or mere talking,<sup>79</sup> with symptoms like fever, cold, sore throat, diarrhoea, fatigue, hard breath, etc.<sup>80</sup> As of December 2019, when it became much in China, the government refused to disclose it or take proper adaptation measures to respect individuals' rights in other countries. The Chinese government's inability to disclose the information earlier and avoid it from spreading to other countries is an action taken to violate people's rights.

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<sup>79</sup> Li Q, Guan X, Wu P, Wang X, Zhou L, Tong Y, Ren R, Lau EH, Wong J.Y, “Early transmission dynamics in Wuhan, China of novel corona virus- infected pneumonia” (N Engl. J. Med. 2020).

<sup>80</sup> The New England Journal of Medicine, “First case of 2019 novel corona virus in the United States” (2020)

In this period, the human rights violated are; the right to life, health, food, the standard of living means of subsistence, etc. As a result of the global threat, there was much rapid loss of lives. The NIGERIAN LAWYERS brought two hundred billion dollar action suit against the Chinese government<sup>81</sup> based on the pandemic's advanced effect of non- transparency of the virus to the world. The Nigerian citizen who are represented by lawyers, made their actions against the Federal Government of Nigeria at the Federal High Court to take measures of reducing the rate of effect of COVID-19 on the citizens, to execute their responsibility to respect the individual's human rights, and also bring an action against the Chinese government (third party) at the international court of justice to execute its duty of promoting the Nigeria citizens rights.

On May 1, 2020, the Chinese government reacted to the suit through the Chinese embassy press secretary in Nigeria, SUN SAXIONG. He called for International solidarity (mitigation measure), not resort to mutual accusation or demand retribution and accountability over the corona virus disease outbreak. He said that the Chinese government pledged to stand with Nigeria in the global fight against COVID-19. For preventing measures, countries imposed a compulsory lockdown; the government closed the borders, restricting movement, which is a human right. The transportation system, shops, recreation areas, schools, and other open places except for hospitals, pharmacies, and grocery shops were left open on a strictly monitored condition of wearing a face mask and providing hand sanitizers and gloves for people.

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<sup>81</sup> Anadolu, 'Nigerians sue china for\$200B over coronavirus pandemic' (AA News Broadcasting System, 07 may 2020) < <https://www.aa.com.tr>africa>ng>> accessed 6 january 2021.

## **The Impact of Covid 19 in the Environment and On International Human Rights**

Generally, the COVID-19 pandemic has mixed impacts on the environment as mentioned below.

Impact on transportation and travelling system: The people's movement rights were one of the special affected rights. All the countries shut down their borders were shut down; bus stops were all closed, including airports. There was no room for immigrants and tourists to travel outside their countries/ states; many cancelled their business trips and proposals. This emergency lockdown was a result of fear of contracting the virus and death. When the pandemic situation calmed down, the transport sectors set up a new transport system by giving a limited number of passengers in a seat, using marks in the bus, and applying hand sanitizer before entering the bus. For example, in North Cyprus, the passengers maintained a good social distance in the bus, with all passengers masked up. The drivers provided hand sanitizer in the bus for all passengers to apply before boarding. All transport drivers strictly followed these rules. Any violation will pay heavy tax or go to prison. The bus fare also increased from four Turkish lira to four lira fifty kurish because of the driver's additional provision to the passengers (hand sanitizer).

Impact on business and workers: Many companies ran a heavy loss during the pandemic due to lockdown. The government gave a policy regulation to lockdown all activities as everyone remains indoors till further notice, to prevent the spread. The victims of this virus were quarantined in an isolation center for special treatment and can only be allowed to return home if tested negative after several test examinations. Agents were created to monitor the lockdown regulation and punish the violators as a deterrent to others. For example, in Nigeria, a famous Actress/celebrity celebrated her husband's birthday with so many friends and other celebrities in attendant, violating the social distance regulation. She was arrested by the Nigerian police, alongside her husband and other

celebrities like Naira Marley, and immediately arraigned to court. The court gave a summary judgment, and she was found guilty and appropriately punished with an option of fine or sanitation, of which she chose sanitation. The open shops, especially the crowded shops, except pharmacy and grocery shops, strictly observed the social distancing rules. The pharmaceutical companies made many sales and grocery shops, though there were limited stocks due to high demand and a low rate of supply. Many employers of labour sacked their workers both in the public sector and private, as the companies and organizations were no longer able to meet up with their workers' salary payments. The only way to solve the burden from them is to relieve some workers from their jobs. Consequently, the affected workers suffered emotional trauma and financial loss as they were jobless for the period of the pandemic.

Prison decongestion: the courts facilitated the criminal matters that were accumulated in the course list, as the court granted the minor offenders immediate bail, the governors were granting pardons to criminals at this period as a measure of preventing the spread of this deadly disease. I can say that the pandemic period was a prayer answered to most of the prisoner's requests to God.

There were so many business contract delays, resulting in a breach of contracts in some business relationships because the relationship became soured and broke down. There was no longer a mutual benefit to sustain their relationships, as every business avoided entering into bankruptcy. For example, insurance companies were no longer granting benefits to their clients during the pandemic period; no fulfilment of agreements was made with many subordinate companies.

Shut down of Small scale businesses. The poor people in the society that depend on their small-scale businesses got the worst shock. For example,

the people selling clothes and hair were not making sales because people had no activities to attend. Instead, the people were more conscious of their lives and health than leisure's, resulting in more food items and medications. Ceremonies were cancelled or postponed: So many couples that fixed their wedding dates within the pandemic months had to cancel or postponed it, while those who celebrated theirs, with strict observation of social distancing rules, did not enjoy the benefit of many gifts, for example in Nigeria where marriage celebrations give so much return, either in gifts or money.

Importation sectors were among the sectors that felt the impact. Goods were shut down and packed up in a warehouse because the government shut down the ports and borders. People in business made many losses this season; some that deal on perishable goods had to sell their goods below price rate to avoid waste, while other goods rusted and spoilt in warehouses.

In the judicial sector, the courts and tribunals were locked down as the matters in court were further delayed causing a delay in the judicial system. Most lawyers did not receive their stipends as usual from their clients, including the government lawyers. Lawyers hoping only on legal practice as a source of income could not cope and feed their families because of the lockdown.

Education institutions followed as well, as it is one of the prone places that people can contract the virus. In developed countries, the school system and activities were all done online. In contrast, in developing countries, the teachers and students were at home throughout because of lack of access to the internet, low or no ICT knowledge, and lack of equipped technology. For example, in Near East University, most school activities like the classes and registration for the semester were online. Many students who

did not have their computer system used the school library with strict Covid 19 rules observed. Academic works were still on irrespective of the pandemic. The only challenge was that some students at an initial stage like me found it challenging to adapt to the alternative learning system.

In the health system, the hospitals and health centres were 24 hours open, and the health workers had more recruitment opportunities. Some workers voluntarily offered to help humanity. The health workers were the most exposed persons during the pandemic's heat; the government provided extra caution and safety systems. Technology got more advanced, as many hospital beds, equipment, hospital tents, and other utilities were in high demand to meet up the critical needs. In countries like Italy, China, the U.K., U.S., the engineers produced more utilities. This country extended helping hands to other under-developed countries that had low or no facilities. The use and disposal of procedure equipment like gloves, masks, and strings were hazardous. The service and removal of these materials are a burden to the environment. Scientific researchers in health sectors had more responsibility on them this period, though their efforts are well commendable. As there was no cure for this virus (to date), they made sure they find alternative measures to curb the situation. Though not certified, chloroquine was an important medication to administer to the victims for relief.

Politically, most developed countries that extended their assistance to other countries built a strong tier and close bond with the assisted countries. Some organizations like WHO, ROTRACTS, REDCROSS, and others assisted the government in giving palliative relieves to the indigent ones in the society and others who were no longer able to sustain their families. Developed countries financially and medically supported underdeveloped countries and places that had the worst death effect. For example, the U.S. gave its support to Italy. China sent medical facilities to Nigeria, solidifying and extending its relationships with these countries.

The second type of impacts, which are positive impacts on our society, is considered as follows:

First, air quality improvement: the rate of gases, especially greenhouse gases in the air by industries or companies, vehicles, and human activities, e.g., carbon dioxide gas is very harmful to the body. These activities were suspended for those periods at the pandemic lockdown, helping the atmosphere balance and reduce gas. They were reducing greenhouse gases practically reduced the air pollution rate caused by gases in the air compared with the content of gases in the previous years. In China, they declined to 50percent of N<sub>2</sub>O and CO<sub>2</sub>. There was a reduction in the rate of respiration disease suffered by humans due to contaminated air intake. In places like ROME, MADRID, and PARIS, NO<sub>2</sub> emissions dropped from 30-60%<sup>82</sup>, CHINA, one of the worlds highest coal consumers, dropped 36% compared to previous years.<sup>83</sup>

Restoration of Tourist Environments: In so many countries, e.g., islands (Cyprus) tourism sector is one of the advanced sectors that boost the country's economy. Because of tourists' constant visits from different countries to these areas, there was frequent transportation causing 89% of global emissions of GHGs.<sup>84</sup> Within the tourist areas, the government and some individuals built hotels and recreation centres to accommodate tourists and entertain them. These buildings make use of fuels and electricity, causing much concentration of carbon rate around those areas. The tourist also disposes of other waste, either solid waste or liquid waste, which hampers nature's beauty and becomes a burden to the environment. The lockdown's positive effect brought back the good nature

<sup>82</sup>European Environmental Agency, air pollution goes down 2020

<<https://www.cca.europe.eu/highlights/air-pollution-goes-down-as.html>>  
accessed aa6 January 2021.

<sup>83</sup> CERECA, " Air quality improvements due to covid-19 lockdown in India centre for research on Energy and Clean Air" ( 2021).

<sup>84</sup> Lenzon M, Sun Y.Y, Fatuary F, Ting Y. P, Malik A, The carbon foot prints of global tourism, (Macmillan Publishers 2018)

of tourist areas and sanitized the atmosphere, for example, in Northern Cyprus.

Restoration of the water system: Most of the developing countries do not treat or recycle their waste. They mostly dump it in the environment, which will later wash off to the rivers. Some dumping is made direct to rivers, for example, countries like India and Bangladeshi.<sup>85</sup> During the lockdown, the industries that produced the solid waste products were all close. Hence, it helped to reduced water pollution and environmental load. The good quality of the water bodies improved the people who had clean Water for consumption and good health.

Reduced noise pollution: The loud noise caused by the operation of heavy generators, machines, airport vehicles, and other human activities has effects on humans, mostly aged people such effects as cardiovascular disorder, hypertension, lack of sleep, psychological disorder, hearing problem. According to WHO, over 100 million persons in Europe complained of exposure to this noisy environment<sup>86</sup>. The Most set of animals most affected is wildlife. However, the lockdown situation reduced activities that lead to noise pollution and shutting down industrial marketplaces. The people living in those areas had to quiet environment. From interviews, they had good periods of sleep during the lockdown period, rejuvenating their bodies and having more time to rest due to the calm environment. Those who were already affected started responding fast to treatment.

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<sup>85</sup> Islam SMD, Azam G “Seasonal Variation of Physiochemical and toxic properties in THREE MAJOR RIVERS, SHITALAKYA, BURIGANGA and TURAG around Dhaka City, Bangladish. J Biodivers. Environ.Sci” (2015) 7(3)120-131.

<sup>86</sup> WHO, “WHO global estimates on prevalence of hearing loss - Mortality and Burden of Diseases” (2012).

## CONCLUSION

In conclusion, the International Environmental Laws did not make human rights provisions in the environmental law instruments, neither was there any reference to the human right to achieve environmental goals. The only related right is the right to development<sup>87</sup>. The Stockholm Conference and the WSSD refer directly to the goal of achieving human dignity.<sup>88</sup> WSSD aims to reduce poverty through sustainable development, which is the right to development, as seen in Article 11 of 1966 ICESCR, hence the human right to an adequate living standard.

It is necessary to recognize human rights in environmental laws, not because it is necessary to achieve environmental goals but to meet the people's needs. To achieve a normal sustainable development (one of the major principles of environmental law for eradicating poverty and protecting future generations), the interest of human rights should be considered and protected.

There should be more legal backups to the environmental laws. Environmental laws should be adopted by international bodies such as the U.N and incorporated into their laws as part of human rights to enable binding and enforceability purposes. The flesh of every legal principle or law is the binding force; else, it will be just a skeleton. Therefore giving flesh to international environmental laws is necessary. When these treaties become rigid laws, the parties are bound by the laws and extend the jurisdiction to non-parties. The principle of sustainable development is one of the essential principles, and it should take recognition in any measure taken by the states to curb the climate change effect.

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<sup>87</sup> United Nations Conference on Environment and Development: Rio Declaration, Principle 3. – UN General Assembly, Report of the United Nations Conference on Environment and Development : resolution / Adopted by the General Assembly, 3 – 14 June 1992, A/CONF.151/26/VOL.1.

<sup>88</sup> Thomas M. Franck, "Fairness in International law and institutions" (Oxford Scholarship Online, March 2012).

So many developing/underdeveloped countries depend on their natural resources for survival, of which they explore more on them, causing maximum environmental pollution which affects human rights. Most human activities in those countries, such as burning coal, deforestation, etc., contribute to climate change and environmental pollution. And these countries are more on the receiving side of the risk of climate change, as there are no standard measures of prevention or adaptation.

In answering the problem question, i will suggest that since both the developed and developing countries were able to cope, adjust and adapt to the sudden situation of the outbreak of the corona virus pandemic, then the countries can readjust their activities to adapt to changes or measures that will protect the environment. There should be a measure taken to manage the natural resources properly to protect human rights from violation. Like the 2010 CANCUN ADAPTATIVE FRAMEWORK, all states are mostly the developing states advised to join the framework. There should be a binding law, creating an opportunity for the developed countries to extend financial and technological support to the developing/underdeveloped countries. If such unity and support practically took place during the pandemic, it is a reality to achieve this measure. Such will enhance the relationship and unity ties among countries.

Finally, there should be a provision for recycling in these countries. The countries should reduce activities that are harmful to the environment manual products rather than electronic. The counties should also map out unique places for industrial activities such as production industries, market places, airports outside residential areas (schools, hospitals, and homes). I also suggest global industrial lockdown from time to time, for a reasonable period, to enable climate to readjust (as industries are the major contributors to climate change and environmental pollution).

## BIBLIOGRAPHY

Aldo Leopold, (1949) *a sand county almanac* 214-220, New York, Oxford University Press.

Barry, S. L, Jonathan, A. P, , Sherborn, M.A, and Madisom, (2015) *Climate Change, Human Right and Social Justice*, Published by Elsevier Inc. on behalf of Icahn School of Medicine at Mount Si, Vol 81, No 3.

Lynton, C. (1997) *Environmental Policy: Transnational Issues and National Trends* (Westport: Quorum Books.

Glavovic, Bruce; Kelly, Mick; Kay, Mick; Travers, Aibhe (2014) *Climate Change and the Coast: Building Resilient Communities*. Boca Raton, FL: CRC Press.

The Hague conventions of 1899 (II), and 1907 (IV), respecting the laws and customs of war on land.

Islam SMD, Azam G (2015) *Seasonal Variation of Physiochemical and toxic properties in THREE MAJOR RIVERS, SHITALAKYA, BURIGANGA, and TURAG around Dhaka City, Bangladesh*. J Bio diverse. Environ.Sci 7(3)120-131.

Kyoto Protocol to the United Nations Framework Convention on Climate Change 2005 – UN General Assembly, United Nations Framework Convention on Climate Change: resolution / adopted by the General Assembly, 11 December 1997, 2303 /161.

Lenzon M, Sun Y.Y, Fatuary F, Ting Y. P, Malik A (2018). *The carbon footprints of global tourism*, Macmillian Publishers Springer.

Lindenmayer, D. Dovers, S. Morton, S. (2014) *Synthesis, and Overview*. CSIRO Publishing, ISBN 9781486301683.

Longman Dictionary of Contemporary English New Edition 2003.

Michelle Lim, *Charting Environmental Law Features in the Anthropocene*, Singapore, Springer 2019.

Ottavio Q. Mouloud B. (2016) *Climate Change and Human Rights an International and Comparative Law Perspective*, Abingdon and New York Published by Routledge.

Peter.D. Wards and Donald B. (2000) *RARE EARTH: why complex life is uncommon in the universe xxvii-xxviii*, New York, First Soft Copy Printing Springer.

Phillips S. 2<sup>nd</sup> Edition (2003), *Principles of International Environmental Law*, Cambridge University Press.

Ravishankara, an atmosphere scientist at Colorado state university, who co-chaired a United Nations panel on stratospheric ozone from 2007 to 2015.

S. CASS, (2003) "Preferences and Rational Choice: New Perspectives and Legal Implications: Beyond the Precautionary Principle", *University of Philadelphia Law Review* 1003.

United Nations Conference on Environment and Development: Rio Declaration, Principle 3. – UN General Assembly, Report of the United Nations Conference on Environment and Development: resolution / Adopted by the General Assembly, 3 – 14 June 1992, A/CONF.151/26/VOL.1.

Timo K. (2014) *Introduction to International Environmental Law*, London, Routledge.

Thomas M. F. (2012), *Fairness in International law and institutions*, Oxford Scholarship Online.

United Nations Human Rights, Office of the High Commissioner, UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

United Nations Conference on Environment and Development: Rio Declaration, Principle 3. – UN General Assembly, Report of the United Nations Conference on Environment and Development: resolution /

Adopted by the General Assembly, 3 – 14 June 1992, A/CONF.151/26/VOL.1.

Ved P.N. Don C.S. Leiden B. (2013) International Environmental Law and Policy for the 21<sup>st</sup> century, 2<sup>nd</sup> revised edition, Leiden City, Martinus Nijhoff Publishers.

UN General Assembly, United Nations Vienna Convention on the Law of Treaties: resolution /adopted by the General Assembly, 23 May 1969, entered into force 27 January 1980 1155 / 331.

WHO deafness, WHO global estimates on prevalence of hearing loss - Mortality, and Burden of Diseases 2012.

## **TABLE OF STATUS**

Arbitration Rules 2021

Hague Convention 1899 - 1907

International Covenant on Civil and Political Rights 1966

International Covenant on Economic and Social Cultural Rights 1966

Johannesburg Declaration 2002

Kyoto Protocol 1997

Montreal Protocol 1987

Paris Agreement 2015

Pollution Intervention Convention 1969 Rio

Declaration 1992

Stockholm Declaration 1972

UNCLOS 1982

Vienna Convention 1969

**TABLE OF CASES**

Guerra V Italy (116/1996/735/932) February 19, 1998 Tasking and  
others V Turkey (46117/99) November 10, 2004 Massachusetts V  
EPA November 549 US 497 29,( 2007) Lopez V Spain (16798/90)  
1994

## PLAGIARISM REPORT

