

Human Rights in Climate Change Discourse Policy Orientation and CSOs Strategic Engagement for Rights Protection

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Climate Change and Human Rights Nexus: context and policy alignment

The nexus between 'Human Rights and Climate Change' has commonly been understood from the denial/violation of fundamental rights of the climate migrants who are being forced to compromise enjoying many of the fundamental rights. They are namely the right to self-determination (ICCPR, ICESCR, Art 1), right to life (ICCPR, Art 6) right to health (ICESCR, Art 12), right to water (CEDAW Art. 14), means of subsistence (ICESCR, Art 1), standard of living and adequate houses guaranteed under Article 12 of ICESCR, culture (Art. 27 of ICCPR) and right to property (UDHR, Art. 17) (Leckie, 2008; UNHCR 2009; McAdam and Soul 2010). The basic principle of these human rights instruments is that human life can be compromised in no circumstance.

Human rights violation is also understood by the disproportionate impacts on the already poverty-stricken, socio-politically excluded people and communities who are being increasingly exposed to both climate and non-climatic factors.

The Office of the High Commissioner for Human Rights (OHCHR; UN Human Rights) report in 2009 discussed specific examples of human rights violations directly by climate change-related impacts.

The report highlighted predominantly negative effects on ecosystems across the globe, on the goods and services they provide and their implication on basic human rights, including the rights to life, food, water, health, housing, and self-determination with detrimental effects on the already disadvantaged groups e.g., women, children, and indigenous peoples.

The OHCHR report reminds the countries of their obligations of protecting rights of the humankind enumerated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as these comprise the core of international human rights law. According to those conventions, every country is legally bound to defend human rights to address whether they are affected by climate change and whether the state has contributed to climate change in a manner which gives rise to specific human rights violations (Knox, 2014). OHCHR (2009) identified a number of national-level obligations that are applicable in this context, such as the obligation to protect individuals against foreseeable threats of weather-related hazards and to provide access to information and participation in decision-making. OHCHR also described various obligations of international cooperation, asserting countries obligations to address the extraterritorial effects of climate change (ibid).

The persistent influence of the UN Human Rights Organization (UNHRC) provoked integration of human rights issues into the UNFCCC regime. The 2010 Cancun Agreement agreed upon at COP 16 emphasized that countries “should, in all climate change-related actions, fully respect human rights” (UNFCCC, 2011). Furthermore, the Paris Agreement agreed upon at COP 21 in 2015 explicitly calls for all States when taking action to address climate change, to “respect, promote and consider their respective obligations on human rights”. The post-Paris climate negotiation also provided due emphasis on integrating human rights into all aspects of climate change.

Considering UNFCCC’s COP decisions as major procedural progress, the United Nations Human Rights Council (UNHRC) recently appointed its first independent expert for human rights and climate change with a view to strengthening human rights obligation to the UNFCCC process. Dr Ian Fry, a renowned climate policy expert and long-term negotiator, has been appointed to this position with a mandate to “study and identify how the adverse effects of climate change, including sudden and slow-onset disasters, affect the full and effective enjoyment of human rights and make recommendations on how to address and prevent these adverse effects”.

While climate change-induced L&D and the consequent forced migration are considered in the context of human rights violations, on-the-ground evidence on climate change-induced human rights violation is still lacking. Only sufficient evidence of the violation of human rights could strengthen the arguments of OHCHR (and the Paris Agreement) to ensure human rights obligations in COP decisions and corresponding obligations of the national governments.

This chapter provides some evidence of the violation of human rights associated with climate change impacts. The evidence is established from the research findings that Center for Participatory Research and Development (CPRD) has implemented partnering with the local organizations in the climate risk exposed areas of Bangladesh. The research explored diverse and disproportionate climate change impacts and their implication for human rights violations throughout the impacts chain extended to secondary and tertiary levels. The research finding would argumentatively strengthen human rights-based discourses under the UNFCCC.

First: Establishing a clear linkage between climate change impacts and human rights violation.

There is a perceptual limitation in understanding and narrating climate change impact, which is mostly 'Risk Focused' (e.g., considering the exposure only). While exposure to a climatic hazard could provide a broader sense of situational vulnerability, this cannot provide a comprehensive understanding of the relative vulnerabilities of the people exposed to the same hazard. Relative vulnerability is a function of sensitivity and adaptive capacity, which are not alike. Usually, the poor and the less privileged ones who already are fighting with poverty, inequality and distributive injustice are at the highest level of relative vulnerability.

Such a perception, in most cases, counts only the primary impacts e.g., extreme weather events and associated loss and damages. However, it ignores slow onset events (also termed climate processes) and the residual impacts that exacerbate consequences by extending the impact chain to secondary and tertiary risk levels. The secondary risks include food and water insecurity, the spread of certain diseases associated with temperature and precipitation changes, loss of biodiversity, loss of ecosystem services, forced displacement and involuntary migration and loss of cultural goods (such as cult and burial sites that cannot be relocated for religious reasons) etc. The tertiary risks include regression in growth and development, widening inequality, unhealthy competition and conflict in resource use, domestic and international tensions on displacement and migration etc.

While the study of climate change is a topic of physical sciences, the impacts are not that straightforward. They involve multi-sectoral and multi-dimensional (e.g., encompassing social, economic, cultural, and political) aspects of human and ecological systems. We need to go beyond the sciences of climate change and its primary impacts. We need to expand the scopes towards understanding the 'human dimension' of climate change impact that has a clear link to human security, rights, dignity and wellbeing.

Second: Establishing solid, research-based policy argument with locally-led action and leadership

Essentially, vulnerabilities to the impacts of climate change are localized, context and community-specific and non-identical, which are predominantly shaped by local geographical settings (function of exposure), economic activities and means of living (function of exposure and sensitivity) and people's ability (function of economic, social and cultural settings) to withstand and recover with full potentialities from a sudden shock or persistent impact.

There are concerns about the comprehensiveness of climate change research as they usually do not provide a deeper look into the causes of localized, community-specific, differentiated and disproportionate vulnerabilities. In many cases research comes up with some estimation of losses and damages associated with extreme weather events. Climate researches also do not provide due emphasis on the existing fault lines of inequality, social exclusions and marginalization of the already marginalized groups and communities, gender discrimination, socio-economic deprivation etc., which are considered the other side of climate change vulnerability.

The climate research is yet to capture the politically sensitive issues like governance failure, power and class domination, socio-political marginalization and exclusion etc., which act as the triggering factors of vulnerability.

Hence, for establishing a solid argument for rights-based policy positioning we need to capacitate NGOs/CSOs for implementing context-specific research and developing evidences of how climate change impacts and other factors are aggravating vulnerability and disregarding enjoyment of fundamental/basic human rights.

Already there are some initiatives of implementing collaborative research in the climate risk-exposed areas. CPRD has established research partnerships with



women-led NGOs namely SDS, MAASAUS, and Badaban Sangho and implemented research activities in three climate hotspots namely, a) river basin areas, exposed to recurrent flooding and erosion, b) south-west coastal areas, exposed to tropical cyclones, storm surges, sea level rise, and salinity ingress, and c) Barind areas, known as 'Monga' areas (a cyclical phenomenon of poverty and hunger) experiencing less rainfall and droughty condition, and home to the excluded and marginalized plain-land indigenous communities. The study identified a) increase in dropping out of schools, child marriage, social and sexual harassment, abuse, gender-based violence, child labor etc. in the erosion displaced communities, b) an increase in women's reproductive health crisis (e.g. uterus infection) preeclampsia, miscarriage etc. due to forced/helplessly intake and use of saline water in the south-west coastal areas and, c) increase of involuntary migration due to crop loss while leaving women burdened with extra work and uncertainties along with increased psychological stress and exposing them to other social risks e.g., sexual violence. These impacts have profound implications for the enjoyment of basic human rights.

Aside from establishing evidence of human rights violations, it is also important to empower local actors, communities, media etc. to communicate politically sensitive findings/issues. The deeply rooted undemocratic party politics has already shrunk spaces of NGOs/CSOs engagement and issues like dysfunctional governance, corruption, grabbing and privatization of commons etc. have rarely been discussed. We need to open up spaces by developing leadership from the local organizations, youths, women and marginalized communities.



Third: Neutralizing political sensitivity of the national governments

Issues around human rights violation and protection are very sensitive to the political governments as they often are blamed by the rights watchers and for not complying with the obligations made under the global frameworks. Ironically climate change-induced human rights violation denotes a different interpretation as the governments of the countries in the Global South, who are not historically liable for causing the climate crisis, are not liable for undermining such rights, hence, they are not obliged to protect the rights being violated or undermined by climate change impacts.

On the other hand, countries that are historically accountable for causing climate crisis are seemingly not that much concerned on the violation of the rights associated with climate change impacts, though they are found more concerned about protecting subjective rights agreed under global rights instrument like Universal Declaration of Human Rights. Yet, countries are beholden by their constitutions to ensure and safeguard fundamental citizenry rights, be they are undermined by the impacts of climate change or by authoritative governance or by dysfunctional governance.

Given the context, protecting rights associated with climate change impacts is much more complex. It's just not by the impacts of climate change, it's also dysfunctional/ authoritative governance and political choice. Though climate polluters are liable for climate crisis and rights violations, countries in Global South cannot avoid the responsibility as they are obligated by national constitutions and global rights instruments. Countries also need to address the fault lines of inequality, social exclusions and marginalization, need to ensure accountable and democratic practices to countervail the other causes of rights violations.

Currently, there is no international legal instrument or framework that could safeguard the rights of the climate victims. Countries should come under a negotiated position to define a new legal and institutional framework under the UNFCCC and the Special Rapporteur on Human Rights and Climate Change could facilitate the process.

Worryingly, the global negotiation under the UN Climate Framework to action is somewhat frustrating. It's course so far is marked by denying, delaying and diluting. It took a decade to make climate polluters understand the need for adaptation in the context of delayed and inadequate efforts in emission reduction. It took almost one and a half-decade to make them understand the 'failure of adaptation' in the context of the growing emission and adaptation finance

gap. It also took more than a decade to make sure an appointment of a Special Rapporteur on human rights and climate change since the issues was first officially introduced by the Office of the High Commissioner for Human Rights in 2009.

Way Forward: where the hope remains?

There is always hope for the power of global CSOs and youth movements, and the push of science. Especially in the climate change discourses, IPCC played a significant role in providing evidence of climate change impacts. Publication of IPCC's 4th Assessment Report in 2007 emphasized adaptation as a necessary complement to mitigation. IPCC's Special report in 2011 'Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation (SREX)' provided a greater understanding of the human and economic costs of disasters and the physical and social patterns that make them extreme events. And lately, IPCC's 6th Assessment Report in 2021 integrates knowledge more strongly across the natural, ecological, social and economic sciences than earlier IPCC assessments. We could demand IPCC's special report on Human Rights violations in the context of Climate Change to advance the science-based argument for establishing a multi-lateral legal instrument for protecting the human rights of the climate-affected people and communities.

On the other hand, CSOs with their observer status to the UNFCCC, have evolved as a strong complementing force to the COP process. They shaped and reshaped climate agendas from the mitigation primacy to adaptation, to loss and damage. CSOs emphasize the solution to climate crisis through economic and social justice lens. They demand radical changes in the economic and social systems to ensure re-distributive justice, women's empowerment and inter-generational equity, while also challenging the manifested injustices to the groups and communities left behind.

The growing movements of the climate activists and the youth forces are ushering in new hopes, in recent years, called for frequent climate strikes, spontaneously observed across the globe and made several national governments bound to declare climate emergencies. Even at COP 26, thousands of climate activists, youths of all nationalities gathered on the streets of Glasgow calling the Parties to ensure climate justice. An organized force of scientists, youths and NGO/CSOs could make the change happen!!

Let not there be a single more instance of child marriage, harassment and gender-based violence; Let not there be any example of drop-out from school, child labor, risk of abuse; Let not there be a single case of reproductive health disorder, social exclusion and maternal death associated with the impacts of climate change.

References

Knox J, H. (2014): Human Rights Principles and Climate Change, Wake Forest Univ. Legal Studies Paper No. 2523599, 8 (2014).

Leckie, S. (2008): 'Human Rights Implications', Forced Migration Review 31, 18-19

McAdam, J. (ed.) (2012): Climate Change, Forced Migration and International Law, Oxford University Press, Oxford. 119-27

McAdam, J. and Soul (2010): An insecure Climate for Human Security? Climate Induced Displacement and International Law, UNHCR Legal and Protection Policy Research Series, Geneva

OHCHR Report (2009): Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (A/HRC/10/61)

UNHCR (2009): Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights; A/HRC/10/61, January 2009

UNFCCC (2011): Decision 1/CP.16, the Cancun Agreements, p. 8, UN Doc. FCCC/CP/2010/7/Add.1.

About CPRD

Center for Participatory Research and Development–CPRD (www.cprdbd.org), a progressive think-tank in Bangladesh, has been consistent in implementing research, advocacy and capacity building activities for establishing climate and development justice. CPRD promotes alternative development ideas, build capacity of the NGOs/CSOs and supports development of knowledge-based youth leadership and facilitate their involvement and influence in the national and as well as global policy discourses on climate change and sustainable development.

So far, CPRD published a number of policy papers, articles, research briefs, journal articles, book chapters etc. on trade and globalization, food security and livelihoods, disaster risk reduction, climate justice, displacement and migration, loss and damage etc., many of which introduced new knowledge and debate in national and global policy discourses.

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