

HUMAN RIGHTS-BASED APPROACH TO CLIMATE CHANGE

“This report is a dire warning about the consequences of inaction,” said Hoesung Lee, Chair of the IPCC. “It shows that climate change is a grave and mounting threat to our wellbeing and a healthy planet. Our actions today will shape how people adapt and nature responds to increasing climate risks.” (I

WHAT IS IT?

It entails a shift from addressing climate change as a scientific, physical issue to one where its impacts on human rights become the centre.

AIMS

To focus on social and environmental justice and the distributive consequences of climate change

WHAT DOES IT PROVIDE?

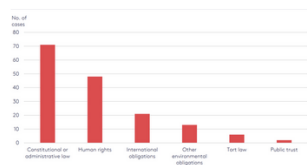
If climate change is addressed through a human rights lens, then states can be held to account for their (lack of) measures to address climate change. This concept is known as accountability. In the International Human Rights Law, it a very important method for seeking redress in cases of violation of human rights.

Many states deny this relationship provided it can bring actions against them. Many consider that climate negotiations and decisions are only compromises and not legally-binding instruments.

This is enhanced by the type of language used in this documents, such as prioritization of verbs such as "should" vs. "shall"

MECHANISMS FOR ACCOUNTABILITY

Climate change litigation in national courts has been on the rise: these are cases “brought before judicial bodies” that “raise an issue of law or fact regarding the science of climate change and/or climate change mitigation and adaptation policies or efforts as a main or significant issue” (Setzer and Higham, 2021)



States' obligations to respect, protect and fulfil human rights, plus their responsibility to abide to their climate commitments, for example NDCs, leads to more and more citizens and organizations presenting cases in national courts, especially since the PA..

HUMAN RIGHTS REGIONAL SYSTEMS

Regional Courts were created to ensure states' compliance with human rights treaties, which is why cases concerning climate change have been recently presented before the European and Inter-American Systems



ANTIGUA AND BARBUDA DURING ITS INTERVENTION IN THE HIGH-LEVEL SEGMENT OF COP 26

“should no formal mechanism for loss and damage compensation be established, member countries of the United Nations may be prepared to seek justice in the appropriate international bodies”

CONCLUSION

The climate change international regime is currently facing a transformation regarding its conceptualization and approach. Shifting from a scientifically-driven perspective to a human rights-based approach entails placing humans at the centre of the climate conversations, because of the impacts climate change will have on the enjoyment of their fundamental rights. States have been avoiding this accountability for many years. Nevertheless, the use of domestic and regional courts, added to the already used universal system of the United Nations, might imply a new era for climate litigation - and thus, states' compliance with their commitments in the climate negotiations.

CLIMATE CHANGE



Intergovernmental Panel on Climate Change (IPCC)

- The United Nations (UN) created the IPCC in 1988 to assess the state of the science of climate change.
- The IPCC delivered its first report in 1990. The report's projections and findings on global warming and climatic change influenced the creation of the United Nations Framework Convention on Climate Change (UNFCCC).

UNFCCC

Mostly a scientifically-driven Convention, the UNFCCC aims for the stabilization of greenhouse gases (GHGs) (carbon dioxide, methane, nitrous oxide, and water vapor) concentrations in the atmosphere to prevent that these interfere with the climate system.

The convention uses technical language and establishes obligations for states to reduce emissions of GHGs. The Parties to the Convention shall meet every year in the Conference of the Parties (COP).



Pre COP 21

In 2008, the UN Human Rights Council (HRC) established a relationship between human rights and the environment through resolution 7/23.

In 2009, during COP 15, the Parties adopted the Cancún Agreements, noting the HRC's resolution and emphasizing that Parties should, in all climate change related actions, fully respect human rights.

The Ad Hoc Working Group on the Durban Platform (ADP) was established to work on a new climate agreement.

COP 21 in Paris

The ADP presented a text with many references to human rights. However, the resulting text adopted by the COP – called the Paris Agreement – ended up mentioning human rights only once and in the preambular text.

Nevertheless, the Paris Agreement was the first ever legally binding instrument that included human rights in its text.



COP 26 in Glasgow

Known as the "loss and damage" COP, states representatives and discussions barely touched on the human rights issue.

Loss and damage, climate justice and financial flow from developing to developed countries were the main topics.

DRAFT PRESENTED BY ADP

PREAMBULAR TEXT

[Stressing that all actions to address climate change and all the processes established under this agreement should . . . respect **human rights**...]

[Noting that Parties should ensure in all climate change related actions full respect of all **human rights**,]

[Recognizing that all actions on climate change shall significantly contribute to the post-2015 development agenda of the United Nations with a particular focus on **human rights**. . .]

OPERATIVE TEXT

[All Parties [and stakeholders] shall [ensure respect for **human rights** and gender equality in the implementation of the provisions of this agreement]

[All Parties shall implement this agreement, . . ., to protect the integrity of Mother Earth, respect and promote **human rights**, the right to development and the rights of indigenous peoples.]

Nationally determined adaptation commitments of all Parties shall: . . . Promote and protect all **human rights**, be gender-sensitive, country-driven, participatory and fully transparent...

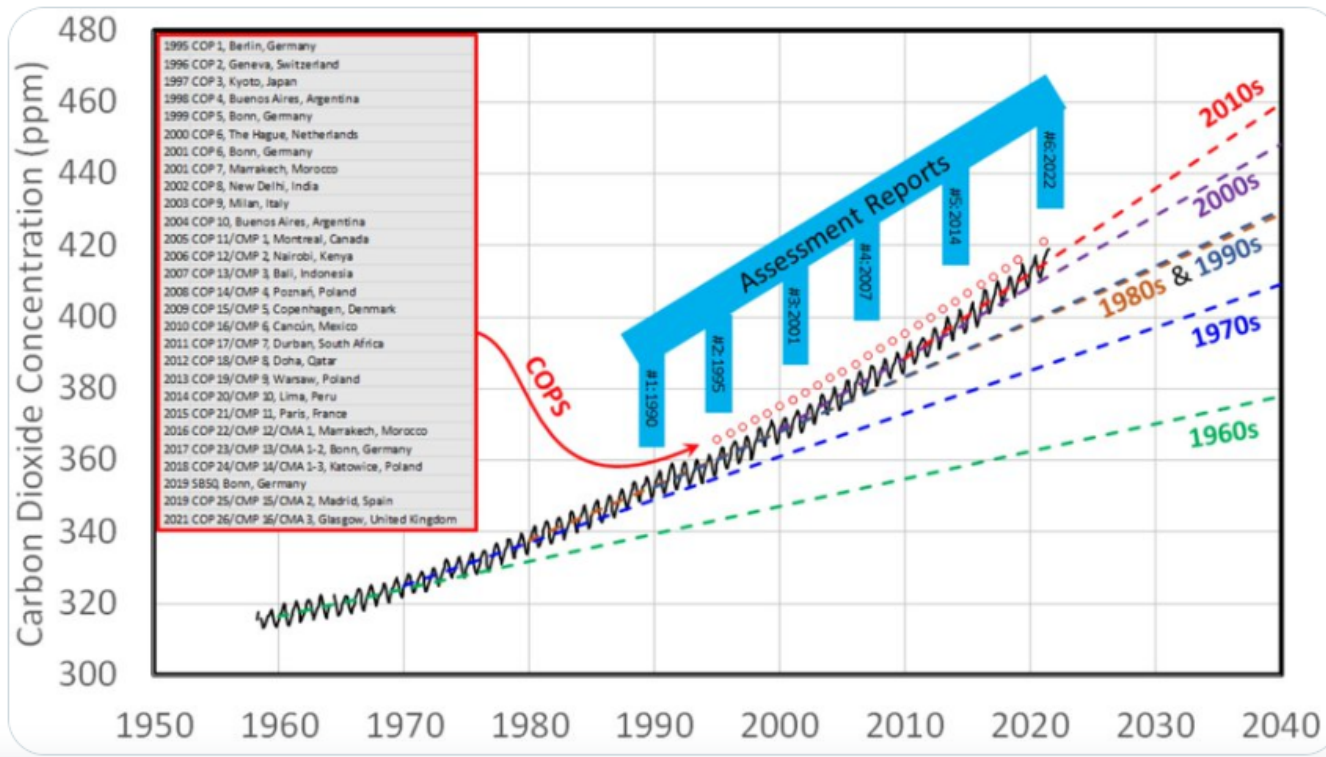


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This image encapsulates why I didn't go to Glasgow for COP26 and am not persuaded by the political "promises" made there by governments and businesses.

A human rights-based approach to climate change is strenuously resisted by wealthy States because it provides accountability.



What happened in COP26?

Parties centered on the following topics of discussion:



Loss and damage

especially important for developing countries that are particularly vulnerable to the adverse effects of climate change



Climate Justice

Going beyond the definition of climate change as a physical/natural problem and more like a political and ethical issue



Support from developed to developing countries

Developing countries asked developed countries to commit further on technology transfer as well as on financial support for climate change adaptation



Human rights?

The resulting decisions from COP26 mainly leave human rights out of the discussion

Despite these topics being in the top of the agenda for the developing countries, and one of the reasons human rights were ignored, no big changes came to any and many states manifested their dissatisfaction and discontent with the approved instruments.