Climate Change and Vulnerable Groups—Global and Regional Developments

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Using Constitutions To Advance Environmental Rights and
Achieve Climate Justice

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Its not Rocket Science

We Know it but we Ignore it
OUTLINE

- Effects of climate change—setting the stage
- Who is vulnerable to climate change impacts?
- Big picture—eminent crisis
- What needs to be done?
- How Can Judges respond to CC?
- Way forward—questions
“Vulnerable People Suffer First and Worst”

Ban Ki-Moon
Effects of Climate Change

- Short-term: erratic climate and weather extremes—natural hazards.
- Long-term: altered ecosystems and habitats—loss of biodiversity, degradation of ecosystems, rainfall variability, sea level rise, ocean acidification.
- Risks to human health and society. Threaten development gains and hinder the implementation of SDGs.
Effects of Climate Change: Pakistan

• One of the world’s most vulnerable countries to climate change.

• Hotter and more extreme climatic events.

• Increased variability of water availability.

• Reduced agricultural productivity.

• Increased coastal erosion and seawater incursion.
Effects of Climate Change: Human Rights

- Right to life
- Right to health
- Right to water and sanitation
- Right to food
- Right to adequate standard of living
- Right to housing
- Right to property
- Right to self-determination
- Right to development (sustainable)
- Right to nationality
- Right to mobility
Effects of Climate Change

- CC has a different meaning for different people.
- CC is unjust—those who have contributed least to CC causes are suffering most from its effects.
- CC is unfair.
- CC is a threat to global peace, security, and prosperity.
What is Climate Vulnerability?

- **What is vulnerability?** Degree of inability to anticipate, cope with, resist, and recover from the impacts of disasters [WHO]

- **What is climate vulnerability?** Degree to which geophysical, biological and socio-economic systems are susceptible to, and unable to cope with, adverse impacts of climate change [IPCC]

*Climate change is undermining the enjoyment of human rights, especially of the people on the frontline of the climate crisis who have contributed least to the causes of climate change: Mary Robinson*
Who is Vulnerable to CC Impacts?

- Children
- Elderly and disabled
- Indigenous people
- Women

... in developing countries

women and children are 14 times more likely to die or be injured during a disaster than men:
Soroptomist International of the Americas
Impacts of CC on Children

- **Health:** more vulnerable to heat waves, vector-borne, and water-borne diseases than adults.

- **Natural Disasters:** small size and relative inability to care for themselves.

- **Malnutrition:** parched, cracked earth and crop failures undermine the survival and nutrition of children

- **Education**

  *Inequality and Poverty:* a vicious cycle—a child living in poverty or deprived of adequate water and sanitation before a crisis will be more affected by a flood, drought or storm, less likely to recover quickly and at even greater risk in a subsequent crisis: UNICEF
Impacts of CC on Children

Nearly **160 million** children live in high or extremely high drought severity zones: UNICEF

More than **88%** of the existing global burden of disease due to CC occurs in children **less than five years of age**: WHO
Impacts of CC on Elderly and Disabled

- Diminished Ability to Adapt
- Diminished Ability to Seek Assistance
- Detrimental Physical Impacts
- Loss of Access to Infrastructure and Resources
- High Poverty Rates
Impacts of CC on Elderly and Disabled

56% of those who died during Japan’s 2011 tsunami were aged 65 or over.

Climate change is having the largest impact on the world’s poorest and most vulnerable people. Within this group, 20% are people with disabilities, who are nearly always doubly disadvantaged: CBM.
Impacts of CC on Indigenous People

- **IPs geographical regions and ecosystems:** often live in places that are worst hit—poverty and discrimination exacerbates their vulnerability.

- **Proximity to nature:** close relationships with their environments and great reliance on renewable natural resources—heightened risk of CC impacts.

- **Climate induced migration:** right to self determination.

- **Biofuels connection:** seen as a solution—leading to human rights violation.
Impacts of CC on Poor and Indigenous People

- **Economic growth:** CC impacts will slow down economic growth throughout the 21st century, making poverty reduction more difficult—“further erosion of food security” and “creation of new poverty traps.”

- **Increased inequality:** wage-dependent poor households affected by increased food prices, especially in regions with high food insecurity and high inequality.
Mind the gap: climate change, minorities and indigenous peoples

In some cases, peoples’ ways of life and even their very existence are being threatened by climate change
Impacts of CC on Women

- Land ownership and displacement
- Unequal access to resources makes women vulnerable to:
  - Crop failure
  - Fuel shortage
  - Water scarcity
- Natural disasters
- Disease

*Majority of world’s poor coupled with unequal access to resources*
An average of 77% of the fatalities were women, some of whom drowned as a result of not being taught how to swim after Tsunami in 2004.

300% increase in new domestic violence cases after two tropical cyclones hit Tafe Province in Vanuatu in 2011.
Big Picture—Eminent Crises

- Hunger, Diseases—UNPRECEDEDENTED DEATHS
- Mass Migration
- Violence
- National Security Crisis
- Grave Injustice

“Climate change is the biggest threat to human rights in the 21st century.”
What Needs to be Done?

- Improve basic public health measures
- Increase capacity for disaster preparedness and response
- Alleviate poverty
- Promote inclusive growth
- Inclusive planning and decision making
- Awareness raising

Women Agents of Change: Women are not only vulnerable to CC but they are also effective actors or agents of change in relation to both mitigation and adaptation: Women Watch
How Can Judges Respond to CC?

- Proactive responses can access to justice
- **Judicial responses:**
- **Seemingly simple:**
  - Challenges to projects and EIAs—they all add up
  - Land—vulnerable peoples’ land rights
  - Water—water justice
- **As complex as:**
  - Claims for refugee status
  - Human rights: rights to nationality, right to life, right to an environment capable of sustaining human life

*The human cost of global warming has a name: climate injustice:* Mary Robinson
How Can Judges Respond to CC?

- **Indigenous Peoples**
  
  *Ali Steel Industry v Government of Khyber Pakhtunkhwa:* Ali Steel cannot harm local residents’ health and life just because EPA does not cover the tribal areas. Right to a clean environment is an integral part of the right to life and dignity under the constitution-PHC.

- **Women**
  
  *Ukeje v. Ukeje, Supreme Court of Nigeria, 2014:* Igbo (ethnic group) law and custom discriminated against daughters inheriting their fathers’ estate, conflicted with a few sections of their constitution. Daughter was entitled to inherit.

  *Ramantele v. Mmusi and Others, Court of Appeal of Botswana, 2013:* Customary rule denying women the right to inherit the family home violates their constitutional right to equality.
How Can Judges Respond to CC?

- **Water**

  *Sindh Institute of Urology and Transplantation v. Nestle Milkpak Limited.* No civilized society should permit unfettered exploitation of natural resources, especially water. Water is a necessity of life. Nestle’s planned bottled water plant prevented.

- **Asghar Leghari v the Federation of Pakistan.** “Water justice,” a sub-concept of climate justice, means individuals have a human right to clean water for survival and recreational purposes.

- **SWIM (Save Waters of Indang, Cavite Movement Inc.) v PTK2 H20 Corporation (Court of Appeal of the Philippines, 2015):** Water is an essential element of life and an environmental resource. Respondent’s excessive water extraction could dangerously impact the riparian ecosystem and locals’ livelihoods.
Way Forward - Questions?

- How can we?
  - Integrate the needs of men and women into CC policies?
  - Move away from largely scientific, market-based CC responses to a more people-focused, gender-aware approach?
  - Ensure human rights are at the centre of CC responses?
  - Ensure women play an equal role in decision-making around CC?
- What successful strategies are already adopted by men and women?
Thank You

“From little things big things grow”

Paul Kelly