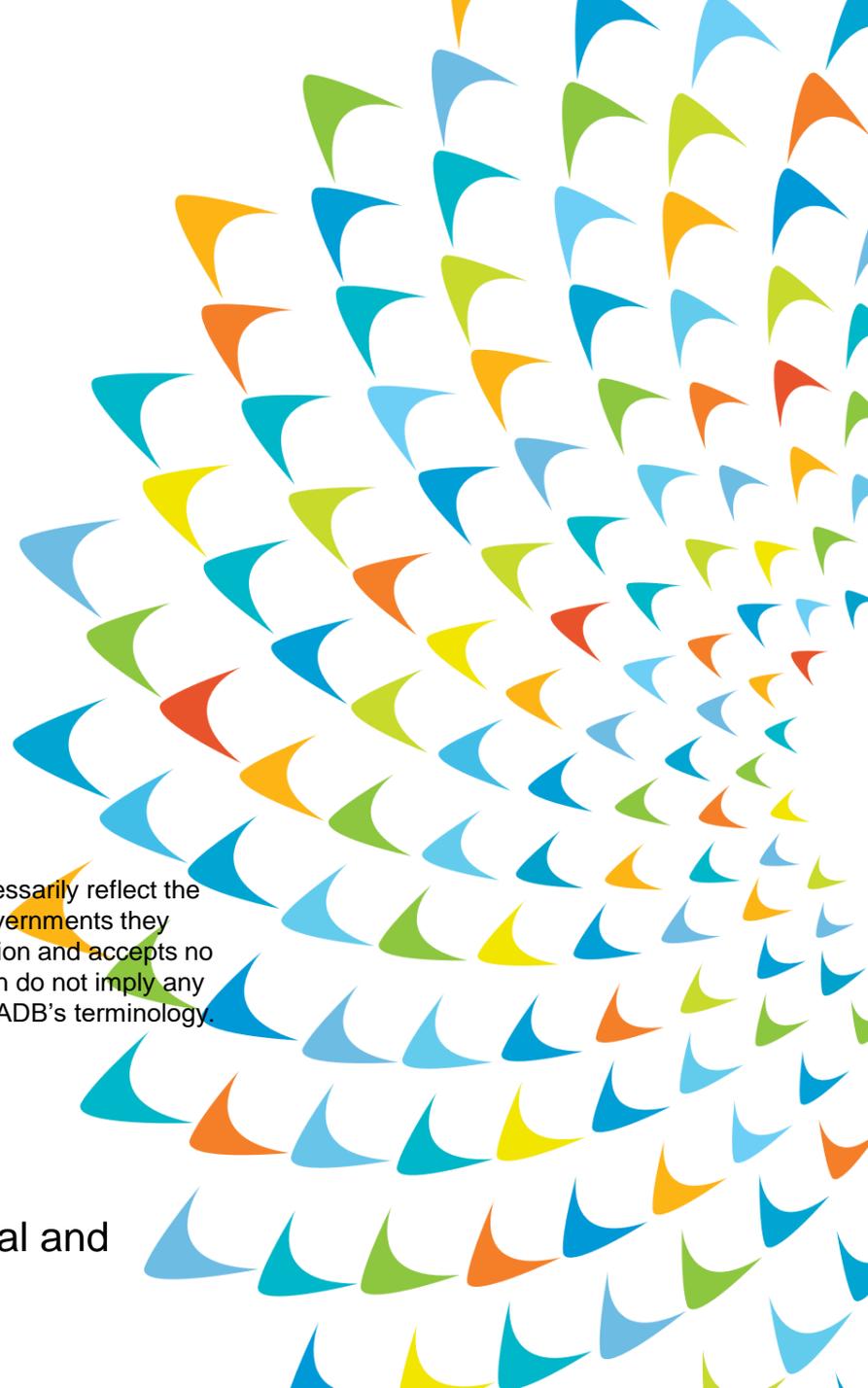




Who Suffers the First and the Worst: Is Climate Change Unfair?



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Asia Pacific Judicial Conference on Environmental and
Climate Change Adjudication
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It's 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?
- Impacts of climate change on vulnerable groups
- Big picture—eminent crisis
- What needs to be done?
- Way forward—questions



*“Vulnerable People
Suffer First and Worst”*

Ban Ki-Moon

ADB



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: Fiji

- **Sea level increase; rising temperature; floods:** coral bleaching, damages mangroves, water borne diseases
- **Destructive Tropical Cyclones:** displaces communities, impacts infrastructure, take human lives
- **Salt water intrusion:** impacts water, agriculture, and forests, livelihoods
- **Ocean acidification:** by 2100 dissolving coral and making it harder for species to grow shells



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:** too hot and rainy for school, schools damaged, or struggling subsistence families have children farm or fish

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

80% of those who died in France's 2003 heat wave were 70 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 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

Climate change is a women's issue



***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—UNPRECEDENTED DEATHS
- Mass Migration
- Violence
- National Security Crisis
- Grave Injustice

“Climate change is the biggest threat to human rights in the 21st century.”

Mary Robinson





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?

- **Judicial responses:** Judges' proactive responses can facilitate vulnerable peoples' access to justice
- **Seemingly simple:**
 - Challenges to projects and EIAs—small cases add up
 - Land entitlement and water claims
- **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***



Vulnerable People CC Litigation

Women

- *Maria Khan et al. v. Pakistan* (2019 Lahore HC petition): climate change disproportionately affects women. Renewable energy is key to meeting Paris Agreement targets. Government's failure to prioritize RE violates constitutional and Paris Agreement obligations

Children

- *Ali v. Pakistan* (2016 SC petition): 7-year old challenges plan to exploit untapped coal fields. Government is bound by constitution and Paris Agreement to ensure a stable climate system



Vulnerable People CC Litigation

Children

- *Juliana et al. v. United States* (2016 petition): 21 youth plaintiffs argue they have a constitutional right to life, threatened by climate change. Government must develop a plan to phase out fossil fuel emissions and stabilize climate system
- *Sacchi et al. v Argentina, Brazil, Germany, & Turkey* (2019 petition to Committee on the Rights of the Child): 16 youths argue climate change is a children's rights crisis. Seek recommendations that countries amend laws and policies to ensure accelerated mitigation and adaptation efforts. Petition includes 3 teenagers from Marshall Islands and 1 teenager from Palau



Vulnerable People CC Litigation

Indigenous Peoples

- *Petition of Torres Strait Islanders to the UN Human Rights Committee Alleging Violations Stemming from Australia's Inaction on Climate Change (2019)*: Government's failure to address climate change violates petitioners' fundamental human rights under ICCPR

Elderly

- *Swiss Senior Women for Climate Protection v. Swiss Federal Council (2019 SC petition)*: 770 women aged 65+ seek more ambitious climate action. Switzerland not on target to meet Paris Agreement goals. Climate change disproportionately affects older people



Way Forward-Questions?

- ✓ How can we?
 - Integrate the needs of men and women into CC policies?
 - Move away away from largely scientific, market-based CC responses to a more people-focused, gender-aware approach?
 - Ensure human rights are at the canter 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

