

Climate Justice: climate change, Human Rights and Animal Rights. (Pages: 18, Words: 7000)

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ABSTRACT (270 words)

This is an essay about Climate Justice, with concentration on climate change and its effects on Human Rights and Animal Rights. Climate change when viewed from a human rights perspective, is an unprecedented source fountain of human rights violations.

In simple terms, this article is a human rights-based research essay, intended to examine the consequences of climate change on human rights, with a short intervention in the discussion by animal rights-based considerations. From a human rights legal perspective, climate change is threatening, in an incomparable way, to fully destroy the fulfillment of a number of internationally protected human rights, like the: rights to health and life; rights to food, water, shelter and property; rights associated with livelihood; and with migration.

It is critical to comprehend that the worst effects of climate change will be firstly felt by those individuals and groups whose rights protection is already insufficient.

I intend to highlight these risks and advocate for their consideration. I will furthermore be looking at the relationship of Climate Change with Human Rights and Animal Rights, and will be asking questions such as:

- What are the consequences of climate change on Human Rights?
- Which is the role of Human Rights in the Climate Justice world?
- Why Animal Rights voices are silent in these debates?

My objective is to illuminate this area of study, by critically examining the relationship of Climate Justice and Human Rights. I believe there is a duty upon all academia to engage in Climate Action –and this is where this essay intends to pay a small contribution— by advocating for a Rights-Based Approach to Climate Change.

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PROLEGOMENA:

This essay is a product of my participation in the Environmental Crimes Law conference¹ 2019. I have been engaging with human rights-based research under the umbrella of climate change for more than a decade, and it is true that academia has come a long way as far as – using human rights legal language to argue for environmental crimes² – is concerned. The development of this body of international law has been rather slow and disappointing³, especially if one considers the softness of the United Nations Framework Convention on Climate Change (hereinafter UNFCCC)⁴ and the inability of the UN to reach consensus, move action, and deliver the promises of its mandate.

For example, 10 years ago, to argue that climate change can be responsible for the violation of the *human rights of future generations*, would have been met with sarcasm at best, now it's part of a well-recognized legal area named *Intergenerational Justice*. On the same train of thought, some years ago it would be unreasonable for legal circles to argue for the human rights protection of environmental refugees, which seemed at the time more like a science fiction's film scenario than a matter of justice. Equally, I hope that my research in this region of law will also form a small contribution in strengthening the traditionally muzzled animal rights voices in these debates. In the ecological drama of the 2019–20 Australian bushfire season, for example, it has been estimated that 1 billion wildlife animals were also the victims of the anthropogenic climate change tragedy, however in their case they have been condemned to a "silent death"⁵, since the loss of life in our perception and construction of justice values very little the life of non-human beings. However, to anticipate and show you my standpoint's view, I will state the following: the main hypothesis which serves as the basis of my essay, argues that the

¹ For more info see: <https://www.legalscholars.ac.uk/event/conference-environmental-crimes-law/> (Accessed Jan 2020). **Conference: Environmental Crimes Law**, Jersey, Channel Islands: The Environmental Crimes Law Conference 2019 was hosted by the Common Good Foundation in partnership with The Resolution Centre, Jersey Law Commission, and The Resolution Journal. The conference was held from 31 October to 1 November 2019. (<http://www.actwithus.org/call-for-papers-ecl2019/>) (Accessed Dec 2019).

² See: Scalia, V. (2015). *The European Court of Human Rights and Environmental Crime*. Study in the framework of the EFFACE research project, Catania: University of Catania. URL: <https://efface.eu/european-court-human-rights-and-environmental-crime> (Accessed on Oct. 2019).

³ See: UN CLIMATE STATEMENT / 15 DEC, 2019, 'Statement by the UN Secretary-General António Guterres on the Outcome of COP25', URL: <https://unfccc.int/news/statement-by-the-un-secretary-general-antonio-guterres-on-the-outcome-of-cop25> (Accessed Dec 2019).

⁴ UNFCCC: The United Nations Framework Convention on Climate Change, 1992. (PDF): https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf (Retrieved Jan 2020).

⁵ See: "Silent death": Australia's bushfires push countless species to extinction. Millions of animals have been killed in the fires but the impact on flora and fauna is more grim even than individual death". <https://www.theguardian.com/environment/2020/jan/04/ecologists-warn-silent-death-australia-bushfires-endangered-species-extinction> (Accessed Jan 2020)

human rights legal world, with everything this entails, from law to practice, can and must offer the know-how and legal tools for tackling the injustices that spring from the climate justice arena. The extinction of species, the ecocide, and environmental crimes are all caused by human activities that magnify and speed up the deteriorations and ecological tragedies linked to climate change. As highlighted in the previous pages: the first and worst effects of climate change will be felt by the most vulnerable. Well, in the case of Australia, it is reported that it was Kangaroos and Koalas which were the worst affected species, so it seems to me that the most vulnerable in our organized societies should not be limited to human beings.

Surely human rights entail more legal power than animal rights in the current global justice order, however, the normalization of criminal environmental harms caused is unfair, medieval, and outdated. Law needs to evolve with us, and with the demands of our times; and thus, from a legal point of view, the basic rights of every living being to exist and live a life in dignity and be free from harm, cannot be valued in a cost-benefit economic way, since it is the role of jurisprudence, and moral philosophy to clarify what is essential in our conduct with our world, whether we talk about our organized political societies or our home-planet. It is true that international human rights law and international humanitarian law (IHL) largely ignores questions relating to the protection of animals, since these bodies of law which are mirroring the foundations of criminal law are deeply anthropocentric. In order to make my point clearer, consider the case of wars and the disastrous effects on wildlife animals.⁶

“It is time to recognize that those who pollute or destroy the natural environment are not just committing a crime against nature, but are violating human rights as well.”⁷

This paper is a product of years of reflection on these issues, and a result of a well-structured critical legal research’s methodology. In Laconic: my methodology which, by definition, could only be multi-disciplinary, focuses on Law and Philosophy. Under these inter-connected scientific disciplines and through considering every possible source of knowledge, I will proceed in examining and reflecting on what should and ought to be the law’s role and response in ‘our case’. By ‘our case’, I mean the case of Climate Justice, in relation to Climate Change, Human Rights and Animal Rights. It is my strong belief, that animal rights should not be absent from these debates.

⁶ “Over the last 50 years, certain species have been vanishing at a very high rate because of wars, with often disastrous effects on the food chain and on the balance of nature.”

⁷ Klaus Toepfer, Executive Director of the United Nations Environment Programme, addressing the 57th Session of the Commission on Human Rights in 2001.

To take things from the beginning, let us consider Principle 1 of the Stockholm Declaration⁸ which established a foundation for linking human rights, health, and environmental protection, and is declaring that:

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.

Allow me to start by critically pointing out that it is not possible to even imagine a life of dignity and well-being for humans in a world without animals, while the environment of quality is a pre-condition that is damaged and threatened to the point of annihilation by climate change.

At this point allow me to make one preliminary clarification concerning the term climate change:

Climate change is the well accepted term for the environmental crimes that contribute to the increase of global warming, and thus, the destruction of our planet, while it should be noted that is also responsible for stimulating the construction of the area of 'Climate Justice'. This term, however, has been manufactured by scientists and political analysts in order to limit its reach, by entailing in its definition a natural process. It is not representative of the criminal harm delivered by humans, neither it can be inclusive in the sense of representing fully the severity of what is at stake.

That been said, allow me to anticipate that I will dedicate a small part of my essay's main discussion in highlighting another important point that hasn't received the deserved attention neither from theoretical circles nor from the activist world, and that is the lack of the animal rights voices in these debates. This essay intends to contribute in this area, by examining the underlying question of 'why is it that animal rights advocates are silent in the climate justice arena?'

⁸ Stockholm Declaration of the United Nations Conference on the Human Environment, 16 June 1972, U.N. Doc. A/.CONF.48/14/Rev.1 at 3 (1973).

MAIN BODY

WHAT IS CLIMATE JUSTICE?

Climate justice is an attempt to serve justice by legally reflecting on global warming as an ethical and political issue, instead of dealing with climate change as – only – an environmental issue. As scholars, lawyers or activists, we engage with climate justice, by linking the effects of climate change to ideas of justice, fairness, environmental justice and social justice. We do so by examining topics such as equality, human rights, collective rights, intergenerational justice, the historical responsibilities for climate change, under the umbrella of climate justice.

A fundamental proposition of climate justice is that those who are least responsible for climate change suffer its gravest consequences, with animals being the less fortunate in this case, since even in the climate justice terrain their suffering is not efficiently acknowledged to date. Hopefully this paper can serve as a small contribution in that direction, by giving voice to animal rights issues relevant to our discussion!

Climate justice is a form of environmental justice, which in theory means that: All species have the right to access and obtain the resources needed to have an equal chance of survival and freedom from discrimination.

As a movement, climate justice advocates are working from the grassroots up to create solutions to our climate and energy problems that ensure the rights of all people to live, learn, work, play and pray in safe, healthy and clean environments are protected and respected.

The inadequate commitment of academia with Climate Justice and climate change research, must be addressed and counter acted. It is interesting to see the huge difference in the numbers of millions of \$ in funding that goes to research about climate change denial, than to climate justice advocates. This could be explained by taking a look at which industries are being negatively affected by climate justice, and who are the holders of capital in our world today.⁹

It seems to me that one way of moving change is by enriching the international literature with scholarly studies of the highest possible standards. Allow me to say that this is an active contribution that the

⁹ See: Brulle, R.J. Institutionalizing delay: foundation funding and the creation of U.S. climate change counter-movement organizations. *Climatic Change* 122, 681–694 (2014).

See also: <https://www.climaterealityproject.org/blog/climate-denial-machine-how-fossil-fuel-industry-blocks-climate-action>; <https://www.scientificamerican.com/article/dark-money-funds-climate-change-denial-effort/> (Accessed Jan 2020).

science community can achieve, only within collaborations with inter-disciplinary teams of scientists, with whom we will all work towards the same direction.

To better understand what Climate Justice entails it is necessary if not useful to consider the United National Framework Convention on Climate Change¹⁰. The objective of the UNFCCC is to “stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”¹¹

Of essential importance in understanding what Climate Justice is all about, is the outlining of a Rights-Based Approach to Climate Change.

As the Human Rights Council has stressed, it is critical to apply a human rights-based approach to guide global policies and measures designed to address climate change. The essential attributes to a human rights-based approach are the following:

- As policies and programmes are formulated, the main objective should be to fulfil human rights.
- The *rights-holders* and their entitlements must be identified as well as the corresponding *duty-bearers* and their obligations in order to find ways to strengthen the capacities of rights-holders to make their claims and of duty-bearers to meet their obligations.
- Principles and standards derived from international human rights law – especially the Universal Declaration of Human Rights¹² and the core universal human rights treaties¹³, should guide all policies and programming in all phases of the process.

¹⁰ [UNFCCC](https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf): The United Nations Framework Convention on Climate Change, 1992. (PDF): https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf (Retrieved Jan 2020).

¹¹ [UNFCCC](#), Article 2, (PDF). The United Nations Framework Convention on Climate Change. (Retrieved Jan 2020).

¹² The Universal Declaration of Human Rights: the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 ([General Assembly resolution 217 A](#)) [PDF: <https://www.un.org/en/universal-declaration-human-rights/> (Retrieved 10 Dec 2019)].

¹³ For a full list of human rights treaties see: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx> (Accessed Dec 2019)

CLIMATE CHANGE AND HUMAN RIGHTS

We know today that human rights and climate change are linked in numerous ways. To be more specific I will focus on the three key ways this interconnected linkage blooms:

1. Firstly, as explained briefly in the prolegomena of this essay: climate change has implications for the real satisfaction of the full range of human rights, especially for people living in vulnerable conditions;
2. Secondly, a failure to act and incorporate human rights into climate action can undermine people's rights; and activate duties of responsibility.¹⁴
3. Thirdly, the integration of human rights into climate change policies can improve effectiveness and result in benefits for people and the planet.

It seems to me that these three key ways are providing us with all the justifications needed to engage with human rights based research in the climate change stadium.

Climate change is undermining the fulfillment of a number of internationally protected human rights, like the: rights to health and life; rights to food, water, shelter and property; rights associated with livelihood and culture; with migration and resettlement¹⁵; and with personal security in the event of conflict. The worst effects of the ecological drama that threatens to bring the end of human rights are likely to be felt by those individuals and groups whose rights protections are already insufficient. There are many new terminological constructions that are gaining ground in the international literature in the field of environmental crimes, health, and human rights, which, if viewed from the same utilitarian standpoint, share a common essence, and that is the message they all try to communicate, which is that climate change is being caused by human activities and is calling for attributing responsibility to the countries, companies or individuals that have direct links with the caused harms.¹⁶ To start grasping the complexities involved in the practice of this field of law, one needs to take a look at the UNFCCC, where terms like "intergenerational justice", and "historical differentiated responsibility", have risen. My research intends to highlight these risks and advocate for their consideration.

¹⁴ See: ["OHCHR | COP21: 'States' human rights obligations encompass climate change"](#) – UN expert". (Accessed Jan 2020).

¹⁵ See: European Council Doc. 7249/08 Annex, climate change and International Security, Paper from the High Representative and the European Commission to the European Council (March 2008).

¹⁶ [UNFCCC](#) Article 3: "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed Party Parties should take the lead in combating climate change and the adverse effects thereof."

The underlying questions in this part of my essay, ask:

- What are the human rights repercussions of climate change, and how does the extensive organization of international human rights law and knowledge convey that phenomenon?
- Where does international human rights law overlap with or provoke duties under the embryonic climate regime? Where should Human Rights essentials challenge climate change strategies?

The human rights world is offering us a complete and useful infrastructure of legal procedures, and well tested set of legal tools that we can now apply to climate justice, since the relationship of climate change with human rights has gained ground and scientists have provided strong justifications for these claims to be standing strong! For example, the effects of climate change in the enjoyment of the basic human rights of future generations is now indisputable. Nonetheless, the climate change denialists are still in existence, and, as it seems, they are better organized than the advocates of Climate Justice! It is true that there is a duty upon all academics engaging with this area to counter-argue using stronger scientific arguments, and find more effective ways to communicate this knowledge with the world, in order to expose the dangers and double standards of this dangerous trend. My ambition is to clarify the confusion covering this area of study, and by examining the relationship of climate change and climate justice with the human rights regime, I will attempt to examine and analyze their links.

In resolution 45/94 the UN General Assembly¹⁷ evoked the logic behind the Stockholm¹⁸ conference in declaring that: “all individuals are entitled to live in an environment adequate for their health and well-being”. The UN asked its member states to join forces in their struggles for safeguarding a healthier environment. Almost half a century after the Stockholm Conference, the connections that were founded by these opening declarations have been reconstructed and developed in various ways in international legal instruments, the decisions of human rights bodies, and the relevant caselaw’s precedent. The common paramount that has utility in our discussion, is that in their majority, these legally valuable data have all been constructed on a rights-based approach to the topics. On that train of thought, we need to understand environmental law, protection and rights, as pre-conditions for the actual satisfaction of internationally-guaranteed human rights. For example, it is not rocket science to understand that humans cannot survive without clean water, and it is impossible to demand or enjoy

¹⁷ See: <https://undocs.org/en/A/RES/45/94> (Accessed May 2019).

¹⁸ Ibid 9.

your right to freedom of expression when you are dead. Environmental protection is therefore a fundamental device in the delivery and safeguarding of the Universal Declaration of Human Rights.

The majority of human rights law was created before environmental protection became a matter of international concern. For example, the UDHR was created in the aftermath of WWII, and dealt with the known injustices which emerged from the barbarities of war, which can partly explain the lack of environmental protection language in human rights law. The most obvious exception are the rights to life and to health, which are included in many human rights instruments, with some references to the environment. For example: The International Covenant on Economic, Social and Cultural Rights¹⁹ guarantees the right to safe and healthy working conditions and the right of children and young persons to be free from work harmful to their health. The right to health in article 12 of the Covenant expressly calls on state parties to take steps for the improvement of all aspects of environmental and industrial hygiene and the prevention, treatment and control of epidemics and other diseases.

To proceed, it will be useful to consider that human rights and science are both gaining value and becoming the main protagonists in climate change litigation. There is a steady development of the global trends in climate change litigation, which, in practice, has the effect of strengthening the connection between climate change and human rights.

There is also an increase in the number of important recent climate change cases, against governments and/or private entities, which have employed rights-based arguments, marking a “rights turn”²⁰ in climate change litigation. For example, *Ashgar Leghari v. Federation of Pakistan*²¹ was the first case where a human rights basis for litigation on climate change was accepted, notwithstanding the obstacles presented by the problematic causality, and extra-territoriality. In this 2015 case, a Pakistani court produced a ground-breaking decision by accepting claims that it was the government’s failure to address climate change that caused the violations of the claimant’s rights.

The term “climate justice” was originally defined as actual legal action on climate change; it is interesting to see the numbers of the relevant caselaw, which, according to a 2017 UN report²², there were, at the time the report was published: 894 identified ongoing legal actions globally.

¹⁹ See: (Art. 7 b, and Art. 10-3): The International Covenant on Economic, Social and Cultural Rights (16 December 1966), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (Accessed Feb 2019)

²⁰ Peel, J., & Osofsky, H. (2018). A Rights Turn in Climate Change Litigation? *Transnational Environmental Law*, 7(1), 37-67.

²¹ *Leghari v. Federation of Pakistan*, (2015) W.P. No. 25501/201. See the facts and decision here: <http://climatecasechart.com/non-us-case/ashgar-leghari-v-federation-of-pakistan/> (Accessed Jan 2020).

²² THE STATUS OF CLIMATE CHANGE LITIGATION: A GLOBAL REVIEW, 2007, ISBN: 978-92-807-3656-4. Published by the United Nations Environment Programme and Columbia Law School’s Sabin Center for Climate Change Law in New York. See: <http://wedocs.unep.org/handle/20.500.11822/20767?show=full> (Accessed June 2019).

A human rights basis for litigation on climate change has had increasing significance for courts in caselaw, despite the problematics that arise from the need to establish causality. The new lawsuits that recent reports are analyzing are also illustrative of these advancements in the process of establishing a causal link between a particular source of emissions and climate-related harms of environmental crimes. Climate change litigation continues to evolve with the demands of our time, and we can observe a continuous geographic expansion of these legal cases. There are now cases all around the globe, with their majority being filed in the Americas, alongside Asia, the Pacific region, and Europe.

It should be noted that no report²³ has managed to provide data about the impacts of climate change litigation in the climate justice project efficiently, which leads us to the conclusion that there is a need for greater assessment and thorough legal research on the effects of these legal actions beyond the courtroom.

The terrain of climate change has an inherent crucial urgency, that justifies the calls for further academic research through a multidisciplinary methodology, as well as for deeper examination of the links between climate change and human rights claims, equity for future generations, as well as of the problematic rising from the questions on sustainable development, and the vulnerability principle.

Unlike the international human rights regime, the UNFCCC and the Kyoto Protocol do not include express provisions for remedial measures for individuals, groups of individuals or communities in case of a particular environmental harm. While the UNFCCC includes in its mandate the “protection of the climate system for the benefit of present and future generations of humankind”, it is not designed to offer human rights protection, humanitarian aid or redress to individuals or communities, for environmental harms. From a legal perspective, one could argue that this is the first inadequacy of the law in question, while it is a fact that this law has great problems in practice due to its nonbinding nature, however it generated a number of useful and progressive legally speaking concepts, like: “intergenerational equity”, “sustainable development” and the “precautionary principle”.

It seems necessary to test the ground of the assumption that sustainability and climate change policies form a symbiotic relationship. Much of the recent interest in the human rights dimensions of climate change has been sparked by the problematic rising from Inuit²⁴ and the Small Island States. In their 2005

²³ <http://www.lse.ac.uk/GranthamInstitute/climate-change-laws-of-the-world/>

²⁴ Watt-Cloutier, S., Climate Change and Human Rights, HUMAN RIGHTS DIALOGUES: “ENVIRONMENTAL RIGHTS”, (2004).

petition the Inuit argued that the effects of climate change could be accredited to acts and omissions of the U.S., and violated their fundamental human rights, such as the rights to the benefits of culture, to property, to the preservation of health, life, physical integrity, security, and a means of subsistence, and to residence, movement, and inviolability of the home²⁵. These rights, it was claimed, are protected under several international human rights instruments²⁶. Yet, the Commission declined to review the merits of the petition. Notwithstanding the unsuccessful outcome of the petition; the whole legal action managed to succeed in stirring and fueling the debates over the links between climate change and human rights and led to a “Hearing of a General Nature” on human rights and global warming.²⁷

No reasonable legal mind can deny, that the Human Rights enforcement and complaint procedures can only be beneficial as utensils, in restoring inadequate environmental rights safeguarding: ‘as compared to efforts to incorporate a right to environment in Human Rights treaties...’²⁸ This is a way to escape the obstacles rising from abstract questions such as: ‘what is meant by a healthy environment’ and so on and so forth. As it has been stressed numerous times in this paper, we have in our disposal the know-how, tools and procedures of the human rights world, which is a better structured body of supporting institutions for the implementation of these rules; and at the end of the day, there is a more efficient way to administer Justice, since there is the possibility for victims to file a complaint, be heard, and seek redress, and that is what the human rights international legal body can offer in the Climate Justice world. Some legal scholars advocate for the need to re-focus on the procedural and substantive rights and the paramount role they are playing in linking Human Rights and the environment. In doing so, one needs to look no further than the freedom of information provisions enshrined in Principle 10 of the Rio Declaration and in other Human Rights instruments, such as Article 10 of the European Convention on Human Rights and Fundamental Freedoms.²⁹ Substantive rights also provide a legal basis for litigation based on environmental concerns as illustrated by the use of Article 8 (right to privacy) of the European Human Rights Convention.³⁰ Even these scholars, however, admit that to speak of ‘a human right to the environment’, is a rather problematic argument, especially when we take into account the ‘balancing it with other Human Rights’.³¹

²⁵ See: <http://www.inuitcircumpolar.com/files/uploads/icc-files/FINALPetitionICC.pdf> (Accessed on Sep 2019).

²⁶ American Declaration on the Rights and Duties of Man, 1948, OAS Resolution XXX, OEA/Ser.L.V/II.82 doc.6 rev.1.

²⁷ See: <http://www.cidh.org/Comunicados/English/2007/8.07eng.htm> (Accessed on Sep 2019).

²⁸ R. Picolotti & D. Taillant, *Linking Human Rights and Environment*, University of Arizona Press, 2003, p. 1.

²⁹ See: *Guerra vs. Italy*, no. 14967/89, ECHR 1998.

³⁰ See: *López Ostra vs. Spain*, no. 16798/90, ECHR 1994.

³¹ R. Picolotti & D. Taillant, *Linking Human Rights and Environment*, University of Arizona Press, 2003, p. 22.

It should also be highlighted that Human Rights appear to have a more evident role in each succeeding rights-sensitive suggestion on climate change. The relevant negotiations of the law-making global organs have developed discussion agendas based predominantly on a utilitarian philosophical basis, and with a consensus built upon a seemingly mutual understanding of the issues in question, which it seems to me are dependent on cost-benefit and other welfare hypothesizing paths, instead of fairness, ethics, and justice. To date, it is observable that the negotiating States have utilized Human Rights language principally for its normative value, to boost paradigms of distributional justice, but without admitting its status as applicable positive international law.

Ideally, the current attitudes should employ Human Rights vocabulary to support a fairer international Climate Justice system. However, in reality, we still need to work in undertaking an examination of the in-depth specific Human Rights damages arising from climate change, and to guarantee the inclusion of Human Rights rules into the relevant climate change law.

At the end of the day, politicians call for Human Rights in order to move uncertain action on climate change policies, instead of supporting Climate Justice action in order to prevent Human Rights costs.³²

Scanning for Human Rights language is, undeniably not the strongest tool for analysis and examination, since it is rather a poor diagnostic tool. However, the preliminary findings of such an analytical exercise are indicative of the unjustified absence of Human Rights language in climate change law, which is a well-established legal structure that as all the evidence suggests, ought to be part of the Climate Justice regime with a more active role. All the requirements for justifying such an inclusion are present in the climate change phenomenon, for example, the harm to human beings' rights enjoyment by acts that could otherwise been avoided. Climate change has a human source, since it is partly anthropogenic, and this contributory connection makes climate change an area of study uniquely suitable for Human Rights assessment.

My main argument is that Human Rights law is applicable, because the human-made impacts of climate change cause Human Rights violations, and hence, a Human Rights approach can be beneficial when dealing with climate change.

The Human Rights context redirects the analysis of the phenomenon in its essential effects on humankind, and since climate change is about suffering, is connected with the harm humans are doing to nature, and

³² The adaptation funding calls, as 'compensation' for harms inflicted by the actions of the Annex I countries. In this line of reasoning, they call for Human Rights as an ethical rather than legal imperative. See, for example, Oxfam International, 'Adapting to climate change: What's Needed in Poor Countries and Who Should Pay' (2007) 104 *Oxfam, Briefing Paper*.

with more concrete environmental crimes. Numerous populations experience the adverse effects of warming temperatures, yet few solutions have been available to them to date. The Human Rights regime can offer solutions to these injustices, by providing the raw materials for constructing an inter-connected Climate Justice legal structure.

In summary, the future of Climate Justice depends on the inclusion of Human Rights. We need immediate action in order to prevent the disaster scenarios. The Human Rights regime can offer to Climate Justice the best possible framework for accountability, law-enforcing tools, individual and collective justice claims, and the real and actual implementation of environmental law. Climate change discourse should not be guided solely by environmental law, politics and, in the worst-case scenario, by economic interests. As a human-inflicted harm to other human beings, it must be addressed as bearing responsibility, and in my view, criminal law could also serve as another path in ensuring and restoring justice, in the Climate Justice arena.

If we bring Human Rights standards into our Climate Justice's future development, then it will be easier to identify those that are under threat and how to protect them. Climate change texts show us a myriad of failings in our existing established design, including the lack of Human Rights mechanisms. Tackling these drawbacks will involve reform of the global policies, from information-gathering and collective decision-making, and from law-making to practice and enforcement, to resource distribution.

According to the Universal Declaration of Human Rights, 'everyone is entitled to a social and international order in which [their] rights and freedoms ... can be fully realized'.

Climate change interrupts this process and the realization and enjoyment of fundamental Human Rights. Human Rights, by essence and definition, place limits and barriers to what governments and powerful corporations can do. This is what Human Rights can bring to the Climate Justice arena and accordingly contribute to tackling, preventing and minimizing climate change's harmful effects on humankind, our planet and all living beings. This is why we should include in the discussion the relevant animal rights voices, and work towards including these arguments in the legal realm.

Things should be called by their name, and the fact is that today we are witnessing the ultimate violation of the Human Rights of the most vulnerable people. It has been scientifically proven that the area of climate change has an inherent crucial urgency; that climate change and Human Rights claims are strongly connected; that equity for future generations is a defining legal principle; as well as the necessity to acknowledge clearly, firmly, and decisively, that the ultimate Human Rights violation of mankind's known

history will be the only thing 'flourishing' due to anthropogenic climate change.

CLIMATE CHANGE AND ANIMAL RIGHTS

Climate change embodies an unparalleled threat to animal life on planet Earth, caused by a single species: humanity. “It is well-known that humans will suffer greatly as a result of continued climate change over the coming decades and centuries, but the calamitous effects on other animals are often downplayed.”³³

It is no rocket science, to predict that animal health and welfare will be subjected to negative effects, either directly (e.g. increased risk of heat and cold stress) and/or indirectly (e.g. destruction of suitable habitat, decreasing quantity and quality of food and water, disease, and risk of flood, fire, drought), and so on and so forth!³⁴

Everything will feel the effects of climate change, since climate change harmfully disturbs both land and water environments. “It is expected that many animals have and will continue to suffer and die from these effects.”³⁵

We need to recognize the critical need to address and mitigate climate change through approaches including evidence-based policy, legislation, emission-reducing technologies, and structural changes³⁶. Where climate change mitigation strategies pose animal welfare risks, these risks must also be carefully considered.

However, what is happening with animal rights voices? Why has there been no advocacy or activism towards the same direction with the human rights campaigning on this area?

Undeniably, the soft law that animal rights are being developed within offer little resources to a legal researcher, or advocate, but this reality should not deter us from engaging with this kind of research questions.

I believe that human rights advocacy should join forces with animal rights activists in order to push for positive legal change of the current legal frameworks in the name of climate justice.

Although there has been some relevant research in the area, mainly for agricultural/livestock animals, the available literature is rather poor, inadequate, and it does not deal with the questions in a holistic way, by including all living beings and animals, that lack the opportunity to have their voices heard. In the words of a very wise man, “Animal Rights isn’t an abstract concept. They’re very real & endorsed by the highest

³³ Tobias, Thornes (2016). Animals and Climate Change. *Journal of Animal Ethics*, 6 (1):81-88.

³⁴ Lacetera N (2019) [Impact of climate change on animal health and welfare](#). *Animal Frontiers* 9:26–31.

³⁵ Fey SB et al (2015) [Recent shifts in the occurrence, cause, and magnitude of animal mass mortality events](#). *Proceedings of the National Academy of Sciences* 112:1083–1088. doi:10.1073/pnas.1414894112.

³⁶ Frank S et al (2019) Agricultural non-CO 2 emission reduction potential in the context of the 1.5°C target. *Nature Climate Change* 9:66. doi:10.1038/s41558-018-0358-8.

courts on the world. Admittedly only one species has them at the moment but then only one species decides who gets them.”

Nonetheless, the existence of animal rights protecting laws around the world is a reality that fails to include the value of every living being, since these laws are mainly dealing with livestock, companion animals, animals in captivity, or other animals that have been subjected to cruelty and suffering from either hunting or for entertainment purposes, which is a rather narrow view of the animal kingdom and life on earth other than humanity.

This is a shortcoming that it is a matter of time to change. The lack of international consensus on these issues, and the absence of international law, is at least condemnable. This is why I chose to include these questions in my research, and contribute in keeping the debates alive and raising awareness of animal rights.

A hopeful example is the **Universal Declaration on Animal Welfare (UDAW)**³⁷, which is a proposed inter-governmental agreement to recognize that: animals are sentient; to prevent cruelty and reduce suffering; and to promote standards on the welfare of animals such as farm animals, companion animals, animals in scientific research, draught animals, wildlife and animals in recreation.

If UDAW gets endorsed by the UN, just like the Universal Declaration of Human Rights, then it can become a strong positive law, with non-binding set of principles that acknowledges:

- the importance of the sentience of animals, and
- human responsibilities towards them.

Animal rights are gaining ground in international law, and it is important to highlight that animal welfare is an ethical, legal, and at the same time scientific concept, which is absurd to lack the protection of international law. This is a global problem that requires global regulation.

For example in “‘Liberté, Égalité, Animalité: Human–Animal Comparisons in Law’, Anne Peters, recalls that the socially constructed boundary between animals and humans has been shifting and seems blurry.”³⁸ This is an optimistic way of viewing the reality of international animal rights protection, however, the Climate Justice project offers a great opportunity to push for the legal protection of animals welfare and rights as part of the environmental protective measures and policies that it entails.

³⁸ Anne Peters (2016). Global Animal Law: What It Is and Why We Need It. *Transnational Environmental Law*, 5, pp 9-23
doi:10.1017/S2047102516000066

It is a matter of time for animal rights to be fully protected and respected by the international legal order, and this will never happen without our activism and advocacy for animal rights.

CONCLUSIVE REMARKS:

Climate change will be responsible for the end of human rights. The seriousness and urgency involved in this arena, is literally a matter of life and death for all parties involved in this essay's discussion.

There is a duty of academia and the scientific community to join forces with other disciplinary sciences and produce research of the highest possible standards, enrich the international literature with papers which should address environmental justice approaches and provide analysis of exposure of different vulnerable groups – like Indigenous peoples; people in poverty; Roma – to environmental and public health harms, based on a rights-based-approach on climate change.

My research on Climate Justice, Human Rights and Animal Rights aspires to illuminate our problematic understanding of climate change, justice, and of the harms threatening humanity and future generations, with attributing the necessary respect and value to animal rights considerations. Scholars tend to forget, when dealing with these issues, that the human race is not the owner of this planet and all life forms. Although we tend to conduct ourselves as the entitled owner and protector of this world, we need to keep it real, and acknowledge that the protection we offer is basically against our own kind. Because in the case of Climate Justice, we do not care about all kinds of natural phenomena or disasters – we care about allocating responsibility on cases where the anthropogenic harms and environmental crimes contribute in the severity of climate change. Like for example, the man-made environmental disasters: The Dust Bowl, Ecocide in Vietnam, Death in Bhopal, Catastrophe at Chernobyl, The Oil Crisis, Dying oceans, Perfect storm over Lake Victoria, Rape of the Amazon, and the list unfortunately goes on and on! These are harms not only of environmental nature but also of social and legal relevance. Legal experts have a duty to advocate against the manipulation of international law's principles, or omissions by law-making organs in the international arena. The human rights regime cannot be applied selectively to newly emerging legislation, since it has the mandate of being a superior source of international legal principles. To dismiss human rights arguments from treaty negotiations, when harm on their enjoyment is entailed, is not acceptable by legal theory. Neither to continue with non-binding political agreements, in cases where the threat of harm to humankind is of incalculable magnitude and range. If a new law is found to be infringing human rights, then it is an ultra vires law, and is deemed to be void. There is a great amount of power entailed in the human rights legal rules, and we need to acknowledge and utilize that force of justice.

Surely, a human rights-based political analysis of the international negotiations on climate change cannot offer direct solutions, however it is necessary to examine them, understand what works and what not, and work harder to empower human rights.

Climate change must be addressed in earnest urgency, for the well-being of humankind and future generations. It is critical to ensure that climate change and justice are reconsidered and conceived in a broader manner, which goes beyond the environmental and economic dimensions that have been central to the existing regime. Giving a central place to human vulnerability, and incorporating the human rights language in climate change law, is crucial. This could be accomplished by a wider reevaluating of differential treatment in the climate change regime, and by ensuring that it better reflects people's vulnerabilities in the future. The need to produce more in-depth human rights research in relation to climate change needs no further justifications. Climate justice is becoming an integral part of the human rights system, and in this co-dependent relationship is where this article focused. It seems to me that the only way to move forward is by fostering the evolution of the human rights building, by pushing for the necessary changes in the international legal world by for example: treating mining, deforestation, ocean degradation and all environmental crimes as violations of human rights.

In summary, I examined whether the future of climate justice depends on the inclusion of the human rights regime within its workings, while I attempted to conduct a spherical analysis by considering the arguments for and against such an inclusion. The findings of this research aspire to appeal to legal experts, climate justice scholars, human rights practitioners, and ultimately to contribute to academia, law, philosophy, international relations and global justice, by filling the gap in current knowledge; but the essence of my interest with this topic of research lies also in acknowledging the duty imposed upon all academia, to dedicate our skills to assisting the climate justice field of study to gain the intellectual power that is to-date misplaced, and hopefully to witness a reversal of the unjustifiably inactive, or better put, anemic current state of the international institutional negotiations, and, likewise, to fuel the further dialogues on these matters, by providing well-researched publications.

In closing this paper, I need to add this final reminder to all of us: it is our duty to do whatever we can now to stop emissions both collectively and also on a personal level. By adjusting our lifestyles in respect and harmony to the natural environment that we live in, for example, by consuming less meat, energy, and natural resources, and by realizing the policies and suggestions of the scientific community in relation

to renewable technologies. We need to digest that the alternative to these small sacrifices that we are called to take is certain extinction, and no other argument can trump this sentence.

REFERENCES:

- 1) Anand, R, 'International Environmental Justice: A North-South Dimension'. England: Ashgate, (2004).
- 2) Beckerman, W. & Pasek, J., 'Justice, Posterity, and the Environment'. NY: Oxford UP, (2004).
- 3) Bendik-Keymer, J., 'The Ecological Life: Discovering Citizenship and a sense of Humanity'. Lanham, MD: Rowman and Littlefield, (2006).
- 4) Benton, Ted. 'Natural Relations: Ecology, Animal Rights and Social Justice'. NY: Verso, (1993).
- 5) Bryant, Bunyan, 'Environmental Justice: Issues, Policies, and Solutions'. DC: Island Press, (1995).
- 6) Bryant, Bunyan, 'The Quest for Environmental Justice: Human Rights and the Politics of Pollution'. San Francisco, CA: Sierra Club Books, (2005).
- 7) Bullard, Robert D., and Glenn Johnson. 'Environmental Justice: Grassroots Activism and Its Impact on Public Policy Decision Making.' *Journal of Social Issues* 56.3(2000): 555-578.
- 8) Gerrard, M., 'The Law of Environmental Justice'. Chicago, IL: The American Bar Association, (1999).
- 9) Hancock, Jan. 'Environmental Human Rights: Power, Ethics, and Law', England: Ashgate, (2003).
- 10) Lacetera, N., 'Impact of climate change on animal health and welfare', *Animal Frontiers*, Vol 9, Issue 1, January 2019, Pages 26–31.
- 11) Limon, Marc 'Human Rights and Climate Change: Constructing a Case for Political Action'. *Harvard Environmental Law Review*. 33 (2): 439–476. (2009).
- 12) Sachs, A., 'Eco-Justice: Linking Human Rights and the Environment'. USA, DC: WorldWatch Inst., (1995).
- 13) Sinden A. 'Climate change and human rights'. *J Land Res Environ Law* 2007; 27:255e71.
- 14) Hsiung, Wayne, and Sunstein, Cass R., 'Climate Change and Animals', *University of Pennsylvania Law Review*, Vol. 155, No. 6, Symposium: Responses to Global Warming: The Law, Economics, and Science of Climate Change (Jun., 2007), pp. 1695-1740.
- 15) Tobias, Thornes, 'Animals and Climate Change'. *Journal of Animal Ethics*, 6 (1):81-88. (2016).
- 16) UNDP (2007). "Fighting climate change: Human solidarity in a divided world" (PDF). *Human Development Report*: 8.
- 17) Humphreys, S. 'Human rights and climate change'. Cambridge University Press. (2010).
- 18) McInerney-Lankford, Siobhan; Darrow, Mac; Rajamani, Lavanya, 'Human Rights and Climate Change: A Review of the International Legal Dimensions'. World Bank Publications, (2011).
- 19) Docherty, Bonnie; Tyler Giannini, 'Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees'. *Harvard Environmental Law Review*. 33: 349–403. (2009).
- 20) Paul Havemann, '*Climate Change and Indigenous Peoples: the Search for Legal Remedies*'. By R. S. Abate and E. A. Kronk (eds), *Journal of Environmental Law*, Volume 25, Issue 2, July 2013, Pages 340–343.
- 21) Peters, Anne: Rights of Human and Nonhuman Animals: Complementing the Universal Declaration of Human Rights. In: *American Journal of International Law Unbound* 112, 355-360 (2018).
- 22) Peters, Anne: Animals Matter in International Law and International Law Matters for Animals, Introduction to Symposium on Global Animal Law (Part I). *AJIL Unbound*, 18 September 2017.
- 23) Peters, Anne, 'Liberté, Égalité, Animalité: Human–Animal Comparisons in Law' (2016) 5(1) *Transnational Environmental Law*, pp. 25–53.
- 24) Gerrard, Emily, "Climate change and human rights : issues and opportunities for Indigenous peoples". *University of New South Wales Law Journal*. 31. (2008).
- 25) Emrah Akyüz, 'How Do Environmental Issues Threaten Basic Human Rights? The Case of the Chernobyl Nuclear Disaster in Ukraine', *Uşak Üniversitesi Sosyal Bilimler Dergisi*, 2015.
