## Human Rights and Climate Change

A Review of the International Legal Dimensions

Siobhan McInerney-Lankford, Mac Darrow, and Lavanya Rajamani



## Contents

Foreword	v
Abstract	vii
Acknowledgments	ix
Abbreviations	xi
Chapter I. Introduction	1
Climate Change: A Defining Human Development Challenge for the	
21st Century.	1
The International Climate Change Regime.	2
The International Human Rights Regime	4
Linking Climate Impacts and Human Rights	8
Chapter II. Human Rights Impacts of Climate Change: A Survey of	11
Illustrative Examples	
Climate Change threatens the right to life.	
Climate Change threatens the right to adequate food	
Climate Change threatens the right to health	
Climate Change threatens the right to water	
Climate Change threatens the right to adequate housing	
Climate Change may affect the realization of a range of other human rights	18
Chapter III. International Environmental Law & Human Rights Law: Basic Concepts	20
Sources of International Law.	
(a) Treaties.	
(b) Customary International Law	
(c) Peremptory Norms of Jus Cogens and Obligations Erga Omnes	
(d) General Principles of International Law	
(e) Conclusions on Sources of International Law	
Public International Law Approaches and Beyond: Human Rights vs.	20
"Human Rights Approaches"	27
Chapter IV. Application of Human Rights Law to Climate Change	
General Relevance of Human Rights to the Climate Change Debate	
Lessons from "Environmental Human Rights Jurisprudence"	
(a) Duties to regulate private as well as state actions	
(b) Procedural and Substantive Standards	
Environmental Rights: A "Human Right to a Healthy Environment"	36

## Contents

Applying Environmental Human Rights Law to Climate Change	39
Concluding Comments	43
Chapter V. UNFCCC, Kyoto Protocol and Human Rights Frameworks:	
Complementarities & Challenges	45
Introduction	45
"Do no harm:" A Core Obligation Common to MEAs and Human Rights	45
The Principle (or Duty) of International Cooperation	47
Equity & "Common But Differentiated Responsibility"	49
(a) Accommodating diversity: differential treatment	50
(b) Common But Differentiated Responsibility	52
(c) "Polluter pays" principle	53
(d) Conclusions on human rights, equity and "Common But Differentiated Responsibility"	53
Conclusions on Complementarities and Tensions	85
Chapter VI. Potential Operational Implications & Areas for Further Research	55
A Frame for Policy Choices.	55
(a) A Normative Focus on Human Welfare	56
(b) Procedural human rights standards - improving decision-making processes	s56
(c) Substantive human rights standards - a focus on outcomes	57
Strengthening Legal Accountability	58
Quantitative Assessments of Human Rights Performance	59
Engaging the Private Sector	60
Technology Access and Transfer	61
A New International Instrument on Climate Change Displacement?	63
Chapter VII. List Of References	66
Annex I: Key Impacts	94
Annex II: Parties To Human Rights And Climate Treaties	95
Notes.	100