

VIEWPOINT

The Climate Emergency is a Human Rights Issue

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The enjoyment of the right to health across the world is under serious threat because of the adverse effects of climate change. Mounting evidence shows that climate change is leading to a global health catastrophe, hitting the hardest those who already suffer from poverty, discrimination, and structural disadvantages, exacerbating longstanding socioeconomic and gender inequalities.¹ Both the Intergovernmental Panel on Climate Change (IPCC) and the World Health Organization (WHO) have made it clear that climate change is already affecting the right to health directly (through deaths and diseases caused by extreme weather events including storms, floods, heatwaves, droughts, and hurricanes) and indirectly (affecting the underlying determinants of health, such as housing, water, sanitation and hygiene, food, and access to a clean and safe environment).² The Report *Lancet Countdown* (2021) shows that the health impact of the climate crisis is accelerating across 43 composite indicators, affecting people's livelihood in all regions of the world.³ According to the report, since 2000, heat-related mortality climbed by 53.7% in people above 65 years, resulting in a total of 296,000 excess deaths in 2018.⁴ The *Lancet* report also warns that 67% of global cities expect their public health care systems to be compromised because of the climate harm on human health.⁵

Despite this alarming data, there are promising signs at the international level, with many institutions mobilizing to tackle the negative effects of the ecological emergency on human health. In October 2021, the UN Human Rights Council issued a landmark resolution to recognize for the first time the fundamental right to a clean, healthy and sustainable environment and called on states to work collaboratively to implement this right.⁶ Although not legally binding, the international recognition of this right by the Human Rights Council is an important step towards implementing transformative frameworks and progressive public policies at the national level to protect both the planet and health of people and communities.

The right to health, while not a right to be healthy, encompasses access to universal, quality, public healthcare services for all and includes the underlying determinants of health, such as food, housing, nutrition, drinking water and sanitation and healthy working conditions. In the context of climate change, specifically, states also have legal obligations to put in place adaptation and mitigation measures to ease the adverse effects of climate change on the enjoyment of the right to health and the right to life.⁷

UN Human Rights Treaty Bodies have further unpacked the intrinsic relation between climate change and the right to health. In September 2019, ahead of the UN Climate Action Summit, five human rights treaty bodies issued a joint statement on human rights and climate change, calling on states to comply with their human rights obligations, including the ones on the right to health, when fulfilling their climate commitments.⁸

Re-imagining new climate frameworks to move beyond the neoliberal hegemony

Translating international environmental commitments into practice will require bold and innovative

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responses at the domestic level, starting with reforming regulatory frameworks and institutions in line with international standards as well as considering the climate and global health challenges of the 21st century. Strengthening health and environmental frameworks at the domestic level (constitutions and laws) would provide a set of norms, values, and principles that can amplify people's demands for health equality and economic and environmental justice, while influencing governmental and judicial decisions.

Sociopolitical constraints might challenge the domestic implementation of international climate (soft) law to protect the right to health. Over the past decades we have witnessed shrinking democratic spaces due to authoritarian regimes in many regions, restricting freedom of speech, association, expression, and undermining human rights protections. Increasing levels of economic inequalities within and between countries undermine people's political participation putting political power in the hands of the rich, which in turn, is used to promote economic and environmental policies for their own benefit.⁹ However, there are also institutional innovative examples that can pave the way to a more sustainable, green, and health-sensitive future. One of them is the constitutional process that Chile has been engaged in since October 2019, when massive rallies in the country demanded a new social, economic, and environmental pact.

In Chile, 40 years of radical neoliberalism—a political view that supports an economy focused on the profits of the few rather than human rights for all, privatization of public services, and unsustainable exploitation of natural resources—produced stark levels of socioeconomic inequalities in the underlying determinants of health.¹⁰

Chile's constitutional process has unique features in the history of modern constitutionalism. With gender parity, reserved seats for Indigenous peoples, and independent representatives, in July 2021 a democratically elected Constitutional Convention kicked off a process that will last up to a year to develop a draft constitution that should be ratified by a national plebiscite.

The Constitutional Convention started off on

the right foot by recognizing that “the new Constitution is being written in a context of Climate and Ecological Emergency, which is why it must take into account, in all the commissions and proposals it prepares, the guarantees of environmental education, prevention, precaution, non-regression, mitigation, adaptation and transformation to face the climate and ecosystem crisis.”¹¹ For real change to happen, however, the next step is to recognize the right to a healthy, clean, and safe environment, as enshrined in the UN Human Rights Council Resolution, as a fundamental human right, as well as the duty to put into practice mitigation, adaptation, and just transition measures to halt the climate emergency.

Indeed, it has been argued that enshrining the right to a healthy, clean, and safe environment in national constitutions can effectively contribute to tackling the negative effects of climate change on the environment and human health.¹² The positive effects of this constitutional enshrinement are related to the strengthening of environmental legislation and democratic institutions, the creation of accountability mechanisms, greater citizen participation in decision making, as well as the promotion of mechanisms for the justiciability of rights.¹³ For example, in 2018, the Colombian Supreme Court issued a ruling in favor of 25 youth and children arguing that the Colombian government failed to protect the underlying determinants of the health of future generations by failing to stop deforestation in the Amazonas and to reduce of greenhouse gas emissions, despite its national and international environmental obligations.¹⁴ Notably, at the global level, the number of judicial cases on climate change issues has more than doubled since 2015.¹⁵ Courts around the world are increasingly filling the gap left by politicians who are failing to address climate change related health issues and to protect human rights of present and future generations.

The impact of the UN Human Rights Council Resolution and its domestic implementation in national frameworks to tackle climate injustices and improve health outcomes has enormous potential. Nevertheless, its practical implications are yet to be seen. Clearly, we are at a turning point of

converging crises, and the window of opportunity to comply with international environmental agreements is narrow. Unless urgent action is taken at the international and domestic level, the adverse health consequences of the ecological catastrophe will worsen. Re-imagining new frameworks, institutions, and policy alternatives to move beyond the neoliberal framing and protect the health of people and the planet is not only a legal obligation, but also a matter of justice.

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