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Climate Change and State Responsibility for Human Rights Violations: Causation and Imputation

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DOI: [10.1007/s40802-018-0110-0](https://doi.org/10.1007/s40802-018-0110-0)[Cite this publication](#)**Ottavio Quirico**

Abstract

The Paris Agreement provides that States 'should respect, promote and consider their respective obligations on human rights' in 'taking action to address climate change'. Should therefore States be held responsible for anthropogenic greenhouse gas emissions in breach of fundamental obligations, that is, the duties to respect, protect and fulfil first, second and third generation human rights? The key cases of the Inuit Petitions to the Inter-American Commission on Human Rights and Kivalina demonstrate that there are serious objective and subjective impediments to holding a State responsible for greenhouse gas emissions. By contrast, the decision of the Hague District Court in Urgenda has the potential to prompt a paradigm shift, whereby the evolution from first to second and third generation human rights allows streamlining fundamental issues of causation, extraterritoriality, attribution of responsibility and policy discretion. It is therefore arguable that the international recognition of a human right to a sustainable environment would require the plaintiff to only demonstrate direct causation, instead of indirect causation, thus fundamentally shifting the burden of proof to the defendant. Furthermore, such a right would allow attributing responsibility pro rata, based on minimum reduction targets outlined in the UNFCCC regime,

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overcoming issues of extraterritoriality and policy discretion. The human right to a sustainable environment entails asserting the fundamental nature of the no-harm rule.

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Climate Change and Human Rights

Chapter

Jan 2013

 Timo Koivurova · Sébastien Duyck · Leena Heinämäki

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Resolution on climate change and human rights in Africa

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Interim report on the right to food

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Report on the issue of human rights obligations relating to the enjoyment of a safe, clean, health...

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Analytical study on the relationship between climate change and the human right of everyon...

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Response to the request of the Ad Hoc Working Group on the Paris Agreement for views and...

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Focus report on human rights and climate change

J Knox

Report on human rights and the environment: review of further developments in fields with...

F Z Ksentini

Human rights and climate change: a review of the international legal dimensions

S Mcinerney-Lankford · M Darrow · L Rajamani

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Mar 2017

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Human Rights and Climate Change: A Review of the International Legal Dimension, World Bank.

Technical Report [Full-text available](#)

Jan 2011

● Lavanya Rajamani · Siobhan McInerney-Lankford · Mac Darrow

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Binding the EU to International Human Rights Law

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Jan 2008

● Israel Butler · ● Olivier De Schutter

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**HUMAN RIGHTS AND CLIMATE CHANGE:
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Apr 2006 · [Hum Right Rev](#)

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Jan 1998 · [CAN MED ASSOC J](#)

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Problems in Climate Change and Human Rights

June 2011 · SSRN Electronic Journal

Dinah L. Shelton ·  Donald K Anton

This "case study" was intended to be included in Anton & Shelton, *Environmental Problems and Human Rights* (Cambridge, 2011), but space limitations forced its omission from the printed text. The link between adverse impacts of climate change and human rights was pushed to the fore recently by a 2005 petition by Sheila Watt-Cloutier on behalf of the Inuit people of the Arctic regions to the ... [\[Show full abstract\]](#)

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