

Chapter Title: The United Nations Human Rights-Based Approach to Climate Change —
Introducing a Human Dimension to International Climate Law

Chapter Author(s): Franziska Knur

Book Title: Climate Change as a Threat to Peace

Book Subtitle: Impacts on Cultural Heritage and Cultural Diversity

Book Editor(s): Sabine von Schorlemer and Sylvia Maus

Published by: Peter Lang AG

Stable URL: <https://www.jstor.org/stable/j.ctv2t4cvp.7>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



This content is licensed under a Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License (CC BY-NC-ND 4.0). To view a copy of this license, visit <https://creativecommons.org/licenses/by-nc-nd/4.0/>.



Peter Lang AG is collaborating with JSTOR to digitize, preserve and extend access to *Climate Change as a Threat to Peace*

JSTOR

Franziska Knur*

The United Nations Human Rights-Based Approach to Climate Change – Introducing a Human Dimension to International Climate Law

Abstract The article revisits the 2009 Office of the High Commissioner for Human Rights Report on the relationship of climate change and human rights and undertakes to develop the United Nations human rights-based approach to climate change into a more meaningful concept. Accepting the negative impact of global warming on the enjoyment of human rights States could be obliged to reduce green house gas emissions and provide substantial international assistance to the States most affected by the consequences of global warming, not merely based on the international climate regime, but on the basis of international human rights law. Human rights also provide an accountability framework for damages related to climate change once the conceptual link of human rights law and global warming is accepted. Although approaches to enhance the concept remain fragmented, it is argued that a human rights-based approach can have a significant impact on the international climate change discourse: It provides access to institutions for the concretization of State obligations and introduces subjective rights and thus a vertical dimension to international climate law.

I Introduction

Appropriately addressing climate change is one of today's major challenges to the international community since strategies to limit human-induced global warming as well as to adapt to the consequences of global climate change require international co-operation. Thus, the international climate regime presents itself as a

* Doctoral candidate and research assistant at the Chair for Public Law, European and International Law at Dresden University of Technology.

This article is based on a presentation at the Junior Research Panel convened by the Centre for International Studies of the TU Dresden on 1 June 2013. I would like to thank Constanze Zahm for her valuable comments during her rejoinder at the symposium.

“highly specialized area of international law”.¹ The 1992 United Nations Framework Convention on Climate Change (UNFCCC)², complemented by the 1997 Kyoto-Protocol³, acknowledges “that change in the Earth’s climate and its adverse effects are a common concern of humankind” (1st preamble clause) and provides for a common international legal framework in order to stabilize “greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system” (Article 2 UNFCCC). In addition to these uniquely formulated treaty provisions, preexisting rules of international law – e.g. rules of international environmental or human rights law as well as secondary rules with regard to State responsibility – frame the legal context of international climate change regulation.⁴ The identification of pertinent international rules as well as the determination of the scope of their applicability in the climate change context requires a comprehensive interpretation process governed by a variety of actors such as States, international organizations, non-governmental organizations (NGOs), international jurisprudence and legal scholars.

This article elaborates on the undertaking of the United Nations, especially its Office of the High Commissioner for Human Rights (OHCHR), in order to implement a human rights-based approach to climate change. The conceptional link of human rights and climate change goes back to an initiative of the Maldives.⁵ In November 2007 a group of Small Island Developing States adopted the “Male Declaration on the Human Dimension of Global Climate Change”⁶ requesting the assessment of human rights implications of global warming. The Human Rights Council adopted this approach in 2008 and invited OHCHR to draft a study on the issue.⁷ Based on the written and oral submissions of States, international institutions, NGOs and scientific groups, the OHCHR’s “Report

1 See e.g. Erkki J Hollo, Kati Kulovesi and Michael Mehling, ‘Climate Change and the Law’ in Erkki J Hollo, Kati Kulovesi and Michael Mehling (eds), *Climate Change and the Law* (Springer 2012) 2.

2 Adopted 9 May 1992, entered into force 21 March 1994, 1771 UNTS 107.

3 Adopted 11 December 1997, entered into force 16 February 2005, (1998) 37 ILM 22.

4 See e.g. Siobhan McInerney-Lankford, Mac Darrow and Lavanya Rajamani, *Human Rights and Climate Change: A Review of the International Legal Dimensions* (World Bank Publications 2011) 11–19.

5 On the role of the Maldives see John Knox, ‘Linking Human Rights and Climate Change at the United Nations’ (2009) 33 Harv Env’tl L Rev 477, 479–484.

6 (13–14 November 2007) www.ciel.org/Publications/Male_Declaration_Nov07.pdf accessed 18 June 2013.

7 UNHRC Res 7/23 (28 March 2008) UN Doc A/HRC/7/78.

on the relationship between climate change and human rights” was published in January 2009.⁸ It was presented before the Human Rights Council, which took note of the study in resolution 10/4 of 25 March 2009 and which decided to hold an interactive panel discussion on the relationship between climate change and human rights.⁹ At the debate held in June 2009 the Council concluded that it was “valuable to look at climate change-related effects from a human rights perspective”.¹⁰ It became, however, evident that there was substantial disagreement between States on the question whether – and if, to what extent – international human rights law contains State obligations in the context of addressing the causes and consequences of climate change. It remained unanswered how the normative construction of correlating rights and duties of international human rights law could be linked in a meaningful way to the international effort to manage climate change.

This article reopens the debate and discusses the advantage of the United Nations human rights-based approach to climate change. First, the key findings of the OHCHR report will be revisited. With reference to three key questions, secondly it will be assessed how the human rights-based approach could further be developed into a more meaningful concept. Third, it will be suggested that the human rights-based approach uniquely contributes to the international discourse on climate change by introducing a human dimension to international climate law. On a practical as well as on a conceptual level, it will be argued that the acceptance of human rights as a cross-cutting issue within the context of global warming will – in the long run – be characteristic for the further development of the international system.

II The Report of the OHCHR on the Relationship between Climate Change and Human Rights

The OHCHR report discusses “how the observed and projected impacts of climate change have implications for the enjoyment of human rights and for the obligations of States under international human rights law”.¹¹ However, it does

8 (15 January 2009) UN Doc A/HRC/10/61.

9 UNHRC Res 10/4 (25 March 2009) UN Doc A/HRC/10/29.

10 UNHRC ‘Panel Discussion on the Relationship between Climate Change and Human Rights: Summary of Discussions’ (15 June 2009) www.ohchr.org/Documents/Issues/ClimateChange/SummaryPanelDiscussion.doc accessed 7 June 2013.

11 (15 January 2009) UN Doc A/HRC/10/61 Summary.

not provide a definite answer to the most obvious question, that is, whether climate change in itself constitutes a human rights violation.¹² The report states:

“While climate change has obvious implications for the enjoyment of human rights, it is less obvious whether, and to what extent, such effects can be qualified as human rights violations”.¹³

In answering this cardinal question, a twofold approach can be followed since international human rights law has an *entitling* as well as an *obligating* dimension.¹⁴

1. The Entitling Dimension of Human Rights Law and Climate Change

First of all, the international system for the promotion and protection of human rights departs from the idea that all human beings are *entitled* to the rights and freedoms proclaimed by the Universal Declaration of Human Rights¹⁵ and contained in international legal instruments such as the International Covenant on Civil and Political Rights (ICCPR)¹⁶ and the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁷

This entitling dimension of human rights law, with regard to climate change, is summarized by the OHCHR report under the heading “implications for the enjoyment of human rights”. It states that global warming will “potentially have implications for the full range of human rights” (Paragraph 20) and further mentions to that extent, explicitly, the right to life, right to adequate food, right to health and right to housing as well as the right to self-determination. Additionally, it emphasizes that the effects of climate change will be felt most acutely by vulnerable groups such as women, children and indigenous peoples and that these groups are entitled to special protection in accordance with the principle of equality and non-discrimination (Paragraph 42).

12 Likewise Clemens Müller and Kristine Franzen, ‘Der Klimawandel und das Menschenrechtssystem der Vereinten Nationen’ (2010) 4 Zeitschrift für Menschenrechte 7, 14.

13 (15 January 2009) UN Doc A/HRC/10/61 Paragraph 70.

14 Walter Kälin and Jörg Künzli, *Universeller Menschenrechtsschutz* (2nd ed, Helbing-Lichtenhahn 2008) 89.

15 Adopted 10 December 1948, UNGA Res 217 A (III).

16 Adopted 16 December 1966, entered into force 23 March 1976, 999 UNTS 171.

17 Adopted 16 December 1966, entered into force 3 January 1976, 993 UNTS 3. See also the wording of the rights contained in the ICCPR, e.g. “Every human being has the inherent right to life” (Article 6), “Everyone has the right to liberty and security of person” (Article 9 Paragraph 1).

Overall, it is not controversial that climate change does and continues to affect the enjoyment of human rights.¹⁸ Thus, from the perspective of the ones entitled by human rights, it can be concluded that climate change and its consequences violate human rights.¹⁹

2. The Obligating Dimension of Human Rights Law and Climate Change

A different question is whether climate change can be qualified as a human rights violation that is legally attributable to States as the primary duty-bearers under international human rights law. After all, a key feature of the international human rights system is the creation of State *obligations*.²⁰ A State owes obedience to human rights provisions contained in international covenants and customary law towards the individual person, bilaterally towards another State and at all times to the whole international community (*erga omnes/erga omnes partes*).²¹ If States violate their human rights obligations, secondary norms of international law become applicable.²² Therefore, it stands to question whether contributing to climate change by emitting green house gases – and thus contributing to the harmful consequences of global warming – constitutes a violation of States human rights obligations.

The OHCHR identifies three obstacles to this argumentation: First, it would be “impossible to disentangle the complex causal relationships linking historical greenhouse gas emissions of a particular country with a specific climate change-related effect, let alone with the range of direct and indirect implications for human rights”; second, global warming would often be only “one of several contributing factors to climate change-related effects”; and third, harmful consequences of global warming would often be “projections about future impacts, whereas human rights violations are normally established after the harm has occurred” (Paragraph 70).

18 See the statements of State representatives contained in UNHRC, ‘Summary of Panel Discussion’ (n 10) Paragraphs 33–54.

19 For a ‘survey of illustrative examples’ see McInerney-Lankford, Darrow and Rajamani (n 4) 11–19.

20 See again the wording of the international covenants such as “Each State Party undertakes to respect and to ensure (...)” (Article 2 Paragraph 1 ICCPR); see also Kälin and Künzli (n 14) 90–94.

21 See Kälin and Künzli (n 14) 107–109.

22 However, see on human rights as self-contained regimes Eckart Klein, ‘Self-Contained Regime’ in Rüdiger Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* (2008 online ed, accessed 6 July 2013) Paragraph 14.

Before turning to a discussion of these arguments and the assessment of conceptual approaches to further develop the relationship of human rights and climate change, it will be briefly revisited where the OHCHR sees the *value added* through a human rights-based approach to climate change: International human rights law provides States with normative guidance in protecting individuals and adopting climate change response measures (Paragraph 71). Discussing the relevant human rights obligations of States, the report distinguishes between national and international human rights obligations.

a) National Level Obligations of States Dealing with Climate Change

The report emphasizes the national level obligations deriving from international human rights law. Foremost, States are obliged to protect their inhabitants from foreseeable threats related to climate change (Paragraph 74). Also, when adopting measures in response to climate change, States need to act in accordance with their domestic human rights obligations. Thus, mitigation measures shall take into account possible implications on the enjoyment of human rights. Likewise, adaptation measures need to be human rights-compliant and substantial procedural safeguards, such as the right to access to information and the right to participation in decision making processes, shall be ensured (Paragraphs 78–79).

b) International Level Obligations of States in the Context of Climate Change

Additionally, the report derives some international level State obligations in the context of climate change from human rights law. Especially from an international equity perspective, it is desirable not only to impose obligations to deal with the consequences of global warming in a human rights-compliant way on the countries most affected by climate change, but also to remind industrialized countries of their responsibilities under international human rights law.²³ Of course, the discussion within the Human Rights Council on this issue proved difficult. Whereas developing countries and Small Island States did not want to be 'left alone', industrialized countries insisted on emphasizing on national level obligations.²⁴

23 See the statements of State representatives on international assistance and cooperation as well as on equity under the UNFCCC and human rights contained in UNHRC, 'Summary of Panel Discussion' (n 10) Paragraphs 68–92.

24 See on this divide Marc Limon, 'Human Rights Obligations and Accountability in the Face of Climate Change' (2010) 38 Ga J Int'l Comp L 543, 550; see as an example for

However, according to OHCHR there undoubtedly exists an obligation for international co-operation and assistance in international law that also applies to the context of climate change (Paragraphs 84–85). This international obligation might be derived from Article 1 Paragraph 3 United Nations Charter as well as from Article 2 ICESCR. Therefore, States are – also due to their knowledge on the human rights implications of global warming – obliged to work together and to “take steps through international assistance and co-operation, depending on the availability of resources, to facilitate fulfilment of human rights in other countries” (Paragraph 86).

3. Discussion

The report, although generally welcomed, has been the object of criticism.²⁵ While drawing a thorough picture of how climate change may affect the enjoyment of human rights, its elaborations on State obligations fall rather short. Although it prominently features the fact that climate change mitigation and adaption strategies contain human rights violating potential, national as well as international State obligations should have been elaborated in more detail.²⁶ Additionally, the determination of extra-territorial State obligations should have been included.²⁷ Thus, the report underlines the apprehension that human rights have become the “common currency of contemporary legal and political discourse”;²⁸ at the same time substantial room for further elaborations remains in order to turn the human rights-based approach into a meaningful concept.

III Three Conceptual Questions for the Further Development of the Human Rights-Based Approach

In order to investigate how the human rights-based approach to climate change might reach its full potential, three conceptual questions will be elaborated upon:

-
- the reluctance of industrialized States John von Doussa, Allison Corkey and Renée Chartres, ‘Human Rights and Climate Change’ (2007) 14 *Austl Int’l L J* 161, 174–176.
- 25 See e.g. Limon, ‘Human Rights Obligations and Accountability’ (n 24) 586; Knox, ‘Linking Human Rights and Climate Change’ (n 5) 496.
- 26 *Ibid* 478.
- 27 John Knox, ‘Climate Change and Human Rights Law’ (2009) 50 *Va J Int’l L* 163, 200; Müller and Franzen (n 12) 17.
- 28 Dimitris Efthymiou, ‘Climate Change, Human Rights and Distributive Justice’ (2009) 20 *Finnish YBIL* 111, 112.

First, it will be asked whether a State duty to reduce green house gas emissions could be derived from human rights law. Second, it will be considered how States could be held responsible *id est* liable for the harmful consequences of human-induced global warming on the grounds of human rights law. Third, the human rights-based duty to provide international assistance will be revisited.

1. Human Rights-Based Duty to Reduce Green House Gas Emissions

With the negative effects of hand-made climate change on the enjoyment of human rights in mind, one might ask whether States are obliged to reduce green house gas emissions on the basis of their human rights obligations.²⁹ Since it has become evident that emissions contribute to a human-induced process of global warming, how are States allowed to do business as usual with regard to their national emission policies? From a human rights law perspective, can they openly accept the obvious impacts of their emissions on the enjoyment of human rights around the globe? At least under the ICESCR, States are obligated to promote human rights internationally.³⁰ Every action that obviously hinders higher standards of living should thus be regarded irreconcilable with international human rights law. Therefore, a rule to abstain from policies that allow further contribution to global warming should be acknowledged. Of course, it is difficult to derive detailed emission reduction goals from human rights provisions. This is not to be undertaken here; rather, attention is drawn to the fact that it is within the competences of human rights institutions to explore this issue. There is a variety of human rights institutions that can, and should, deal with the question of how States' human rights obligations are linked to international climate law and their obligation to reduce greenhouse gas emissions.³¹

29 Arguing strongly in favor of such a duty: Food First Information and Action Network Deutschland, 'Menschenrechte im Klimawandel – Anforderungen an die deutsche und internationale Klimapolitik 2009' www.fian-deutschland.de/online/index.php?option=com_remository&Itemid=160&func=startdown&id=165 accessed 7 June 2013.

30 According to Article 2 ICESCR States "undertake steps with a view to achieving the realization of the rights" in general. Thus, the provisions are at least to some extent extraterritorially applicable; see for an examination of the extraterritorial State obligations of the ICCPR and the ICESCR with regard to climate change Knox, 'Climate Change and Human Rights Law' (n 27) 202–206.

31 See for the competences of the Human Rights Council UNGA Res 60/251 (3 April 2006) UN Doc A/RES/60/251 Paragraphs 2–6; for the evolutionary interpretation of the competences of the Human Rights Committee and the ICESCR Helen Keller and Leena Grover, 'General Comments of the Human Rights Committee and Their

On the one hand, the UN-charter-based human rights institutions should renew their commitment to investigating the topic of climate change and human rights. As has previously been shown, the debates on climate change and human rights at the Human Rights Council are highly controversial – here, the restrictions of political human rights bodies have become evident.³² However, (further) discussion within this forum keeps the issue on the international agenda.³³ When States publicly argue that it is not their obligation from human rights law to reduce emissions, it gives NGOs and international civil society the chance to disagree in public.³⁴ Again, the OHCHR may act as a think tank providing not only the members of the Human Rights Council with facts and figures but also suggesting further legal evaluations and insights. It might also be advisable to open a thematic procedure. By appointing a special rapporteur, an expert would further a “comparative and global understanding of the human rights problem”³⁵ and suggest how single human rights obligations could extent to a duty to reduce emissions.³⁶

On the other hand, all major international human rights conventions are equipped with monitoring institutions consisting of international experts.³⁷ Each convention committee is competent to evaluate how climate change affects the enjoyment of the relevant convention rights, currently and in the near future. By establishing this link, it is to be elaborated to what extent the pertinent conventions contain State obligations that might also affect national climate and emission policies. Here, a valuable tool “to give states guidance in nature and scope of other

Legitimacy’ in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 127.

32 See n 24.

33 See Nigel S Rodely, ‘UN Treaty Bodies and the Human Rights Council’ in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 352.

34 See e.g. the report of the Food First Information and Action Network (n 29).

35 Rodely (n 33) 353.

36 See also the work of the thematic rapporteurs assigned by the Human Rights Council (and its predecessor, the Human Rights Commission) already conducted on climate change as reviewed in Müller and Franzen (n 12) 17–23.

37 Such as the Human Rights Committee (Article 28 ICCPR), Committee on Economic, Social and Cultural Rights (ECOSOC Res 1985/17 (28 May 1985) UN Doc E/RES/1985/17), Committee on the Elimination of Discrimination against Women (Article 17 Convention on the Elimination of all Forms of Discrimination against Women), Committee on the Rights of the Child (Article 43 Convention on the Rights of the Child) etc.

obligations³⁸ are general comments that could address the relationship between pertinent human rights and the global threat of climate change. Although not formally legally binding, general comments have a robust legal analytical function by defining the scope of convention rights.³⁹ Furthermore, they often contain policy recommendations⁴⁰ and thus might suggest to what extent States should cut emissions and what measures are advisable to take in order to reverse the negative effects of national emission policies on the human rights situation around the globe.

2. International Responsibility and Liability for Harmful Consequences of Human-Induced Global Warming on the Basis of International Human Rights Law

A second question derived from a human rights perspective on climate change is whether States could be held responsible, *id est* liable individually or collectively, for the harmful consequences of human-induced global warming. Generally, the issue of climate change litigation and compensation claims of individuals has not yet been fully explored.⁴¹ International law does not *per se* negate individual claims against States; the Articles on State Responsibility for Internationally Wrongful Acts by the International Law Commission leave this question open (Article 33 Paragraph 2).⁴² However, individuals are not procedurally equipped with many opportunities besides seeking diplomatic protection.⁴³ Also, the UNFCCC remains more or less silent on the issue of responsibility for damage and compensation claims for injury.⁴⁴

38 Rodely (n 33) 353.

39 See Keller and Grover (n 31) 129–133.

40 Of course the means and methods of domestic implementation of the covenant rights are to the discretion of the parties (Article 2 ICCPR); see on this Keller and Grover (n 31) 124–125.

41 See Timo Koivurova, ‘International Legal Avenues to Address the Plight of Victims of Climate Change: Problems and Prospects’ (2007) 22 J Envt’l L & Litig 267, 278–282; see also Christina Voigt, ‘State Responsibility for Climate Change Damages’ (2008) 77 NJIL 1, 2.

42 UN GAOR (53rd Session 2001) UN Doc A/CN.4/L.602/Rev.1; on the few opportunities for advancing climate change litigation in general international law see Koivurova (n 40) 278–282.

43 Roda Verheyen, *Climate Change Damage and International Law: Prevention Duties and State Responsibility* (Nijhoff 2005) 242.

44 See Hannah Stallard, ‘Turning up the Heat on Tuvalu: An Assessment of Potential Compensation for Climate Change Damage in Accordance with States Responsibility under International Law’ (2009) 15 Canterbury L Rev 163, 178.

Thus, in addition to domestic lawsuits,⁴⁵ human rights law could provide an accountability framework for damages in relation to climate change.⁴⁶ This was put to a test when, in 2005, representatives of US-American and Canadian Inuit petitioned to the Inter-American Commission on Human Rights to hold the United States responsible for the violation of human rights.⁴⁷ It was argued that the US was responsible for human induced global warming since it is the world's largest emitter of green house gases.⁴⁸ Although acknowledging the human causation of climate change, the US-Government would not reduce emissions and denied participation in the Kyoto-Protocol. Since as a result of global warming the Inuit's fundamental rights, e.g. to use and enjoy their traditional lands, to enjoy their personal property, to health and to life, were violated, the claimants requested a declaration that the US be internationally responsible for the violation of these rights; that it adopts measures to limit its greenhouse gas emissions and that it implements a plan to protect Inuit culture and resources.⁴⁹

The petition was found to be inadmissible before the Commission.⁵⁰ According to its decision, it was not possible to relate harmful emissions to one single State and to further calculate the national responsibility for climate change.⁵¹ However, the case opened significant debate on the question whether States are responsible *id est* liable for infringements of human rights caused by climate change.⁵² Whereas the question of causation still remains unanswered,

45 See Michael G Faure and André Nollkaemper, 'International Liability as an Instrument to Prevent and Compensate for Climate Change' (2007) 26 *Stan Env'tl L J* 123, 147–150; further examples in McInerney-Lankford, Darrow and Rajamani (n 4) 58.

46 See the Statement of Mauritius at the Panel on Human Rights and Climate Change (HRC 11th Session, 15 June 2009) as cited in Limon, 'Human Rights Obligations and Accountability' (n 24) 578.

47 Inuit Circumpolar Council, 'Petition to the Inter-American Commission on Human Rights Seeking Relief from the Violations Resulting from Global Climate Warming Caused by Acts and Omissions of the United States' (7 December 2005) www.inuitcircumpolar.com/files/uploads/icc-files/FINALPetitionSummary.pdf accessed 6 June 2013.

48 *Ibid* 6.

49 *Ibid* 4–8.

50 See Jessica Gordon, 'Inter-American Commission on Human Rights to Hold Hearing after Rejecting Inuit Climate Change Petition' (2007) 7 *Sustainable Dev L & Pol'y* 55.

51 For further discussion of the case see Faure and Nollkaemper (n 45) 157.

52 See e.g. James D Ford, 'Supporting Adaptation: A Priority for Action on Climate Change for Canadian Inuit' (2008) 8 *Sustainable Dev & Pol'y* 25; Katherine King, 'Climate Change and the Inuit: A Melting of Actions into a Cloudy Mess' (2009) 17 *Se Env'tl L J* 481.

there is the idea to attribute climate change-related damage to a State based on its historical emissions or to the degree in which it fulfils its reduction targets contained in the Kyoto-Protocol.⁵³ Some authors also introduce a whole system of reparations based on those targets.⁵⁴ However, there is one important obstacle: If the attribution of responsibility for damages is linked to the reduction targets that States willingly consent to, then there is considerably less incentive to commit to such obligations. Also, one could argue that there is not much value added from blaming, rather, the international community should focus on developing common approaches in order to manage future challenges of global warming.

With all these arguments in mind, human rights institutions nevertheless should elaborate on the principles for the international responsibility and liability of States with regard to the effects that climate change has on the enjoyment of human rights.⁵⁵ It is imperative to the human rights idea not only to speak of an entitlement to human rights but also to hold States responsible where they do not live up to their obligations. States should at least be evaluated with regard to how they meet protection obligations and adopt appropriate response measures. Thus, assessing individual liability claims for climate change-related damages, not the amount of emissions would be the appropriate yardstick but a State's performance with regard to fulfilling its national level as well as its international level human rights obligations in the context of global warming.⁵⁶ On a case to case basis, the extent of State responsibility has to be elaborated by the pertinent judicial and quasi-judicial human rights bodies.⁵⁷ Although there are significant procedural obstacles, filing suits and submitting petitions before international and national bodies would initiate further exploration of the possibilities of international climate change litigation.⁵⁸ As witnessed in the Inuit case, this

53 See Limon, 'Human Rights Obligations and Accountability' (n 24) 571.

54 Maxine Burkett, 'Climate Reparations' (2009) 10 Melb J Int'l L 509, 521–529.

55 See e.g. for the concept of joint and several liability Faure and Nollkaemper (n 45) 165.

56 See Knox, 'Climate Change and Human Rights Law' (n 27) 209–210.

57 The relevance and impact of decisions of human rights institutions has also been recognized by the ICJ in *Case Concerning Ahmadou Sadio Diallo* (Republic of Guinea v Democratic Republic of Congo) (Judgment of 30 November 2010) (2010) ICJ Rep 639, Paragraph 66.

58 For a critical discussion of the assumption, that human rights litigation may drive global green house gas policy see Eric A Posner, 'Climate Change and International Human Rights Litigation: A Critical Appraisal' (2007) 155 U Pa L Rev 1925.

provides for international publicity. Further, it becomes an avenue for political pressure and a place for NGOs and civil society to present their points of view.⁵⁹

In addition to regional human rights bodies, especially bodies with an international scope seem to be the appropriate place for those kinds of procedures.⁶⁰ Complementing the individual complaint procedure before the Human Rights Committee, the recently established mechanism under the ICESCR will provide for valuable institutional resources since social and economic rights in particular are impaired by the consequences of global warming.⁶¹

3. Human Rights-Based Duty to Provide International Assistance to Affected States

The third question is whether States have any further duties to provide international assistance on the basis of their human rights obligations. Especially, it stands to argue that industrialized countries have a substantial extra-territorial duty to assist the affected countries in the process of adapting to the consequences of climate change. The duty to assist with adaptation (e.g. by means of technology transfer) is also contained in the UNFCCC (Article 4 lit c). In the past, however, it has proven difficult to bring these words to life.⁶² Human rights law could help concretize this obligation since it also contains the principle of international cooperation and mutual assistance.⁶³ Article 2 Paragraph 1 ICESCR reads:

59 See Philippe Cullet, 'Liability and Redress for Human-Induced Global Warming: Towards an International Regime' (2007) 43 *Stan J Int'l L* 99; see also Faure and Nollkaemper (n 45) 179.

60 See Geir Ulfstein, 'Individual Complaints' in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 92–100.

61 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; adopted 10 December 2008, entered into force 5 May 2013, UN Doc A/63/435; see on the new mechanisms Rainer Grote, 'The Optional Protocol to the International Covenant on Social, Economic and Cultural Rights: Towards a More Effective Implementation of Social Rights?' in Holger P Hestermeyer et al (eds), *Coexistence, Cooperation and Solidarity, Liber Amicorum Rüdiger Wolfrum* (Vol I, Nijhoff 2012); on the justiciability of economic, social and cultural rights see Urfan Khaliq and Robin Churchill, 'The Protection of Economic and Social Rights: A Particular Challenge?' in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 200–202.

62 See McInerney-Lankford, Darrow and Rajamani (n 4) 61–62.

63 Ibid.

Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

Thus, the ICESCR obligation to promote social, economic and cultural human rights is not restricted to the territory of a State party, but extends to international assistance and co-operation. However, it is unclear what is contained in the human rights-based duty to co-operate; the nature of the concept and its legal value is still debated.⁶⁴ In terms of providing economic or technical assistance from one State to another, the duty to assist does not emerge until the sovereign State asks for it; even then it has to be realized step by step only.⁶⁵ However, the duty of international co-operation and assistance could also contain a 'standing' State obligation to offer assistance to those States and peoples most affected by the consequences of global warming. Should not all States constantly take steps in order to guarantee non-discrimination in access to economic, social and cultural rights everywhere and to ensure the minimum essential levels of each right enshrined in the covenant?⁶⁶ It should also be investigated to what extent national obligations of environmental law might be applicable internationally. Before legislating emission caps, States could be asked to do an impact assessment not only focusing on national (and border) regions, but also take into account consequences on a global level.⁶⁷

Accepting the human rights-based approach to climate change, it is again within the competence of human rights institutions to deal with these questions. They should firstly concretize the State obligation to provide assistance to affected States and to co-operate internationally in reducing the effects of climate change on the enjoyment of human rights. Secondly, human rights institutions should monitor State compliance in this regard. During the State reporting procedure at the Human Rights Council as well as within the reporting systems of

64 See Limon, 'Human Rights Obligations and Accountability' (n 24) 578–581.

65 See Margit Ammer, 'Klimawandelinduzierte Umweltveränderungen als Ursache für freiwillige Binnenmigration: Ist Europa verpflichtet zu helfen?' (2010) 4 *Zeitschrift für Menschenrechte* 48, 62–64.

66 These criteria were established by the CESCR for the concretization of the national obligations to promote the ICESCR rights of a progressive nature; see CESCR, 'Operational Statement' (10 May 2007) UN Doc E/C.12/2007/1; see also Khaliq and Churchill (n 61) 213.

67 In favour of this approach Knox, 'Climate Change and Human Rights Law' (n 27) 201.

the human rights conventions, States should be invited to include information on how they fulfil their duty to provide international assistance to States most affected by the consequences of global warming.⁶⁸

IV The Contribution of the Human Rights-Based Approach to the International Discourse on Climate Change

These conceptual approaches to climate change derived from international human rights law remain incomplete and it is even unclear whether the three questions could at all be answered in a way that satisfies human rights lawyers. At least the OHCHR's report on the relationship of climate change and human rights has not substantially changed the international discourse on how to manage the causes and consequences of global warming.⁶⁹ It is thus not very promising for the individual to claim compensation through climate change litigation procedures on the grounds of international human rights law. There is no consensus that human rights law explains the degree to which justice requires compensation for green house gas emissions.⁷⁰ Furthermore, States seemingly do not feel obliged to reduce emissions on the basis of their human rights obligations. Thus, it has to be concluded that at least in a formal sense contributing to climate change cannot be regarded a human rights violation.⁷¹

Is it therefore pointless to adopt a human rights-based approach to climate change – or does it even harm international human rights law by “cheapening the concept of rights”?⁷² It may be stated that the human rights-based approach contributes to the international discourse on climate change in two significant ways: On a very practical level, conceptually linking climate change and human rights provides access to institutions. On a more theoretical level, the human rights-based approach to climate change introduces a vertical level to international climate law and refocuses it on the needs and subjective rights of individuals.

68 On reporting procedures see Walter Kälin, 'Examination of State Reports' in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 37.

69 See Knox, 'Linking Human Rights and Climate Change' (n 5) 496; for some exemptions see McInerney-Lankford, Darrow and Rajamani (n 4) 55.

70 See Efthymiou (n 28) 120–124.

71 See Müller and Franzen (n 12) 24.

72 Kenneth Roth, 'Is climate change a human rights issue?' bigthink.com/videos/re-is-climate-change-a-human-rights-issue-2 accessed 7 June 2013; a different approach: Edward Cameron, 'Human Rights and Climate Change: Moving from an Intrinsic to an Instrumental Approach' (2010) 38 *Ga J Int'l Comp L* 673.

1. Access to Institutions

Firstly, treating climate change as a human rights-related problem provides access to international institutions. Human rights bodies have proven to be forums of lively debates and expertise. This could be rewarding for the discussion of the human rights-related aspects of climate change as well.

The pertinent institutions of the international climate framework are mostly run by scientists and diplomats.⁷³ There is not much place for elaborating on the impacts of global warming.⁷⁴ The climate regime further does not establish a responsibility, *id est* liability framework, for individual claims against States for damages related to global warming and neither does it provide for institutions to which the individual may petition.⁷⁵ By linking climate change to human rights, a multitude of institutions become available as platforms for discussion. The Human Rights Council and the convention committees then are the forums where States as well as international experts negotiate problems of climate change, analyse them from a human rights angle and elaborate on related legal and political aspects.

With general comments or during the individual complaints procedure, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights might investigate the effects of global warming on single convention rights. During the reporting procedures they could include climate change aspects and ask to what extent States co-operate internationally in order to mitigate the effects of climate change in Developing and Small Island States. NGOs could complement the process by presenting their points of view.

Within the United Nations system, it is furthermore the Human Rights Council's task to monitor emerging problems such as climate change "in order to ensure that preventive approaches are implemented to head off gross human rights violations".⁷⁶ Here also State representatives have the opportunity to illustrate

73 See e.g. for the Kyoto-Protocol Meinhard Doelle, 'Compliance and Enforcement in the Climate Change Regime' in Erkki J Hollo, Kati Kulovesi and Michael Mehling (eds), *Climate Change and the Law* (Springer 2012) 166, 169.

74 "One of the key failings of climate change diplomacy over the past two decades is that the phenomenon has been viewed as a scientific projection," Marc Limon, 'Human Rights and Climate Change: Constructing a Case for Political Action' (2009) 33 *Harv Envt'l L Rev* 439, 451.

75 Koivurova (n 41) 278–282; but see on some participation rights Heike Walk, *Partizipative Governance: Beteiligungsformen und Beteiligungsrechte im Mehrebenensystem der Klimapolitik* (Verlag für Sozialwissenschaften 2008) 153–170.

76 See Bertrand G Ramcharan, *The UN Human Rights Council* (Taylor and Francis 2011) 81.

how they are affected by climate change, share experiences on common climate change-related human rights problems and present their mitigation and adaptation strategies. During the Universal Periodic Review, for example, Vanuatu's representatives already made reference to the implications climate change had on the country's inhabitants.⁷⁷ He illustrated that especially women and children suffer from the consequences of extreme weather events and how the Government designs human rights-compliant response measures to adapt to climate change. Also, the State representative asked for international assistance in order to combat the consequences of climate change in his country.⁷⁸

Thus, the charter-based as well as the treaty-based human rights institutions become a place where State efforts in combating climate change are put to a test from a human rights angle. One might argue that by 'burdening' human rights institutions with a climate change discussion the system is threatened by spreading itself too thin. This might actually be a realistic concern; however, it is rather an argument for allocating more resources to human rights institutions than against adopting a human rights-based approach to climate change. Linking human rights and climate change provides the international discourse on global warming with the necessary forums that finally moves the individual and his/her rights to the centre of the discussion.

2. Introduction of Subjective Rights

This leads to the second contribution of the human rights-based approach to the international discourse on climate change: It might add a vertical dimension of State obligations and introduces the possibility of subjective rights to international climate law. The pertinent international rules on climate change derived from international environmental law as well as the UNFCCC, including the Kyoto-Protocol, oblige States on a horizontal level.⁷⁹ Thus, States have obligations, e.g. the reduction of emissions, primarily towards other State parties. In contrast, human rights obligations function vertically; here an individual

77 HRC, 'Universal Periodic Review Highlights 12 May 2009 (morning, not an official record)' www.ohchr.org/EN/HRBodies/UPR/Pages/Highlights12May2009AM.aspx accessed 11 July 2013; see for a review of the innovative mechanisms of the Human Rights Council Rosa Freedman, *The United Nations Human Rights Council: A Critique and Early Assessment* (Taylor and Francis 2013) 254, 282.

78 HRC, 'Universal Periodic Review Highlights 12 May 2009' (n 77).

79 On the legal structure of the UNFCCC and the Kyoto-Protocoll as well as the contained obligations see Verheyen (n 43) 44, 108.

is entitled to a certain act or omission by a State.⁸⁰ Thus, the human rights-based approach could add to international climate law a new direction of obligations.⁸¹ It at least re-centres the discussion on human needs and introduces the possibility of individual claims.

At present it is rather difficult to derive such a vertical structure from the UNFCCC.⁸² It stands to reason, from a classical inter-state treaty with a horizontal structure, that subjective rights can also be derived and to what extent a human rights-oriented interpretation could assist with this endeavour. The general possibility of the existence of subjective rights in international law was recognized by the International Court of Justice in the *LaGrand*-case.⁸³ However, so far, there is not much consensus with regard to the identification of such rights.⁸⁴ It might be interesting to analyse Article 4 Paragraph 1 lit i in conjunction with Article 6 UNFCCC in this regard. By these provisions, State parties commit to promote education and training as well as public awareness on climate change and its effects and to encourage the widest possible participation in this process. Article 6 ensures public access to information on climate change and its consequences as well as public participation in developing adequate responses. These provisions could constitute independent subjective rights of individuals. A treaty interpretation in this regard would add a normative direction to international State obligations, especially for those parties to the UNFCCC that have not ratified the pertinent human rights conventions containing similar information and participation rights.⁸⁵

80 See Kälin and Künzli (n 14) 90; Daniel Bodansky, 'Climate Change and Human Rights: Unpacking the Issues' (2010) 38 Ga J Int'l Comp L 511, 516; see however on some similarity of the two regimes Helen Keller and Geir Ulfstein, 'Introduction' in Helen Keller and Geir Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012) 2.

81 See Ammer (n 65) 59; likewise also Margaux J Hallt and David C Weiss, 'Avoiding Adaptation Apartheid: Climate Change Adaptation and Human Rights Law' (2012) 37 YJIL 309, 344.

82 See on human rights under the UNFCCC Limon, 'Human Rights Obligations and Accountability' (n 24) 582–586.

83 ICJ, *LaGrand Case* (Germany v USA) (2001) ICJ Rep 466, Paragraph 77.

84 See Anne Peters, 'Das subjektive internationale Recht' (2011) 59 Jahrbuch des öffentlichen Rechts der Gegenwart 411, 439.

85 See on this group of rights in the climate change context Svitlana Kravchenko, 'Procedural Rights as a Crucial Tool to Combat Climate Change' (2010) 38 Ga J Int'l Comp L 613.

Thus, human rights law could help “fill important gaps in the existing international climate change regime”.⁸⁶ Accepting human rights law not as an isolated branch of international law, but as interacting with other fields of international law,⁸⁷ might significantly influence special regimes such as climate law by re-focusing some of its rules on the needs and interests of the individual. In the OHCHR’s view – although under the protest of industrialized States such as Canada⁸⁸ – human rights complement the UNFCCC by underlining that “the human person is the central subject of development and that international cooperation is not merely a matter of the obligations of a State towards other States, but also of the obligations towards individuals”.⁸⁹ To what extent this approach actually introduces subjective rights to the international climate regime is a matter of the further development of international law. Generally speaking, it comes down to the question of what role the individual is to play in the international system.⁹⁰

V Conclusion

It might be concluded that the United Nations as well as the human rights institutions have not yet fully explored the advantages of a human rights-based approach to climate change. There so far is no satisfying answer to the question of how climate change can, in a meaningful way, be conceptually connected to the normative legal construction of correlating rights and duties of international human rights law.

I suggest that international climate law benefits from a human rights-based approach not only by gaining a ‘human face’ but also from the fact that the human rights framework is more legalistic than environmental treaties. By approaching climate change from a human rights perspective, the discussion moves from the political arena to the area of international law.⁹¹ For example, the reduction of green house gas emissions presents itself within human rights law as a question about what States shall do based on existing obligations; in

86 Limon, ‘Human Rights and Climate Change’ (n 74) 455.

87 See e.g. Linos-Alexander Sicilianos, ‘The Human Face of International Law: Interactions between General International Law and Human Rights’ (2012) 32 HRLJ 1.

88 See the submission of Canada to the OHCHR Study cited in Limon, ‘Human Rights and Climate Change’ (n 74) 460 n 116.

89 (15 January 2009) UN Doc A/HRC/10/61 Paragraph 86.

90 See e.g. Kate Parlett, *The Individual in the International Legal System: Continuity and Change in International Law* (Cambridge University Press 2010).

91 See Bodansky (n 80) 515.

the international climate regime it is merely regarded as a question of political negotiations and voluntary reduction targets.⁹² Arguing that the political playing field of multiple climate change management strategies would illegitimately be narrowed can hardly convince if one accepts the idea of universal, equal and inalienable human rights. How States use their margin of appreciation requires monitoring, and thus the relationship of human rights and climate change needs to be (re-) discovered by the pertinent human rights institutions.

In the end, adopting a human rights-based approach to climate change can be regarded as a manifestation of the increasing focus of international law on the individual. More and more areas of international law are exploited for individual interests, are made accessible for the private person or are complemented by subjective rights.⁹³ Acknowledging this overarching process of a “humanization of international law”⁹⁴ the relationship of climate change and human rights requires further assessment. Ultimately, what then lies at the heart of the discussion of climate change as one of today’s major challenges to the international community is not only the State’s obligation but also the individual’s right.

Bibliography

- Ammer, M, ‘Klimawandelinduzierte Umweltveränderungen als Ursache für freiwillige Binnenmigration: Ist Europa verpflichtet zu helfen?’ (2010) 4 *Zeitschrift für Menschenrechte* 48
- Bodansky, D, ‘Climate Change and Human Rights: Unpacking the Issues’ (2010) 38 *Ga J Int’l Comp L* 511
- Burkett, M, ‘Climate Reparations’ (2009) 10 *Melb J Int’l L* 509
- Cameron, E, ‘Human Rights and Climate Change: Moving from an Intrinsic to an Instrumental Approach’ (2010) 38 *Ga J Int’l Comp L* 673
- Cullet, P, ‘Liability and Redress for Human-Induced Global Warming: Towards an International Regime’ (2007) 43 *Stan J Int’l L* 99
- Doelle, M, ‘Compliance and Enforcement in the Climate Change Regime’ in E J Hollo, K Kulovesi and M Mehling (eds), *Climate Change and the Law* (Springer 2012)

92 Ibid 517.

93 See Peters (n 84).

94 Antonio Augusto Cancado Trindade, ‘International Law for Humankind: Towards a New Jus Gentium’ (vol II) (2005) 316 *Recueil des Cours* 15, 19; term also used by Theodor Meron, *The Humanization of International Law* (Nijhoff 2006).

- Doussa, J v, A Corkey and R Chartres, 'Human Rights and Climate Change' (2007) 14 *Austl Int'l L J* 161
- Efthymiou, D, 'Climate Change, Human Rights and Distributive Justice' (2009) 20 *Finnish YBIL* 111
- Faure, M G and A Nollkaemper, 'International Liability as an Instrument to Prevent and Compensate for Climate Change' (2007) 26 *Stan Env'tl L J* 123
- Food First Information and Action Network Deutschland, 'Menschenrechte im Klimawandel – Anforderungen an die deutsche und internationale Klimapolitik 2009' www.fian-deutschland.de/online/index.php?option=com_remository&Itemid=160&func=startdown&id=165 accessed 7 June 2013
- Ford, J D, 'Supporting Adaptation: A Priority for Action on Climate Change for Canadian Inuit' (2008) 8 *Sustainable Dev & Pol'y* 25
- Freedman, R, *The United Nations Human Rights Council: A Critique and Early Assessment* (Taylor and Francis 2013)
- Gordon, J, 'Inter-American Commission on Human Rights to Hold Hearing after Rejecting Inuit Climate Change Petition' (2007) 7 *Sustainable Dev L & Pol'y* 55
- Grote, R, 'The Optional Protocol to the International Covenant on Social, Economic and Cultural Rights: Towards a More Effective Implementation of Social Rights?' in H P Hestermeyer et al (eds), *Coexistence, Cooperation and Solidarity, Liber Amicorum Rüdiger Wolfrum* (vol I, Nijhoff 2012)
- Hallt, M J and D C Weiss, 'Avoiding Adaptation Apartheid: Climate Change Adaptation and Human Rights Law' (2012) 37 *YJIL* 309
- Hollo, E J, K Kulovesi and M Mehling, 'Climate Change and the Law' in E J Hollo, K Kulovesi and M Mehling (eds), *Climate Change and the Law* (Springer 2012)
- Inuit Circumpolar Council, 'Petition to the Inter-American Commission on Human Rights Seeking Relief from the Violations Resulting from Global Climate Warming Caused by Acts and Omissions of the United States' (7 December 2005) [www.inuitcircumpolar.com/files/uploads/icc-files/FINAL PetitionSummary.pdf](http://www.inuitcircumpolar.com/files/uploads/icc-files/FINAL%20PetitionSummary.pdf) accessed 6 June 2013
- Kälin, W, 'Examination of State Reports' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)
- and J Künzli, *Universeller Menschenrechtsschutz* (2nd ed, Helbing-Lichtenhahn 2008)
- Keller, H and G Ulfstein, 'Introduction' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)

- Keller, H and L Grover, 'General Comments of the Human Rights Committee and Their Legitimacy' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)
- Khaliq, U and R Churchill, 'The Protection of Economic and Social Rights: A Particular Challenge?' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)
- King, K, 'Climate Change and the Inuit: A Melting of Actions into a Cloudy Mess' (2009) 17 *Se Env'tl L J* 481
- Klein, E, 'Self-Contained Regime' in R Wolfrum (ed), *The Max Planck Encyclopedia of Public International Law* (2008 online ed, accessed 6 July 2013)
- Knox, J, 'Climate Change and Human Rights Law' (2009) 50 *Va J Int'l L* 163
 – 'Linking Human Rights and Climate Change at the United Nations' (2009) 33 *Harv Env'tl L Rev* 477
- Koivurova, T, 'International Legal Avenues to Address the Plight of Victims of Climate Change: Problems and Prospects' (2007) 22 *J Env'tl L & Litig* 267
- Kravchenko, S, 'Procedural Rights as a Crucial Tool to Combat Climate Change' (2010) 38 *Ga J Int'l Comp L* 613
- Limon, M, 'Human Rights and Climate Change: Constructing a Case for Political Action' (2009) 33 *Harv Env'tl L Rev* 439
 – 'Human Rights Obligations and Accountability in the Face of Climate Change' (2010) 38 *Ga J Int'l Comp L* 543
- McInerney-Lankford, S, M Darrow and L Rajamani, *Human Rights and Climate Change: A Review of the International Legal Dimensions* (World Bank Publications 2011)
- Meron, T, *The Humanization of International Law* (Nijhoff 2006).
- Müller, C and K Franzen, 'Der Klimawandel und das Menschenrechtssystem der Vereinten Nationen' (2010) 4 *Zeitschrift für Menschenrechte* 7
- Parlett, K, *The Individual in the International Legal System: Continuity and Change in International Law* (Cambridge University Press 2010)
- Peters, A, 'Das subjektive internationale Recht' (2011) 59 *Jahrbuch des öffentlichen Rechts der Gegenwart* 411
- Posner, E A, 'Climate Change and International Human Rights Litigation: A Critical Appraisal' (2007) 155 *U Pa L Rev* 1925
- Ramcharan, B G, *The UN Human Rights Council* (Taylor and Francis 2011)

- Rodely, N S, 'UN Treaty Bodies and the Human Rights Council' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)
- Sicilianos, L A, 'The Human Face of International Law: Interactions between General International Law and Human Rights' (2012) 32 HRLJ 1
- Stallard, H, 'Turning up the Heat on Tuvalu: An Assessment of Potential Compensation for Climate Change Damage in Accordance with States Responsibility under International Law' (2009) 15 Canterbury L Rev 163
- Trindade, A A C, 'International Law for Humankind: Towards a New Jus Gentium' (vol II) (2005) 316 *Recueil des Cours* 15
- Ulfstein, G, 'Individual Complaints' in H Keller and G Ulfstein (eds), *UN Human Rights Treaty Bodies: Law and Legitimacy* (Cambridge University Press 2012)
- Verheyen, R, *Climate Change Damage and International Law: Prevention Duties and State Responsibility* (Nijhoff 2005)
- Voigt, C, 'State Responsibility for Climate Change Damages' (2008) 77 NJIL 1
- Walk, H, *Partizipative Governance: Beteiligungsformen und Beteiligungsrechte im Mehrebenensystem der Klimapolitik* (Verlag für Sozialwissenschaften 2008)

