

Climate Change and its Effects on Right to Health and other Related Human Rights

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Abstract

During the last two centuries, human being has emitted huge amounts of greenhouse gases to the atmosphere, by providing energy from fossil fuels. The increasing accumulation of these gases in the atmosphere has led to “global warming” and as a result “climate change”. This inauspicious phenomenon has such a wide domain that threat the survival of the human around the world. The sharp decline in fresh water sources and strategic agricultural products and severe destruction of environment are just some inevitable adverse effects of climate change. Therefore, it would be a proper ground for breaching some of the most important human rights. The aim of this research is to show effects of climate change on “right to health” and some other related rights, and therefore responsibilities of governments to fight against that.

Conclusion: Climate change due to human activities, makes a proper field for breach of human rights globally, and as we see “right to health” is affected absolutely. According to principal of “common but differentiated responsibilities”, most of the burdens of combating against climate change are on the shoulders of developed states and developing countries have much less obligations; but at least have common responsibilities. Rather, all of the states have clear international obligations for protecting human rights in their territories. Therefore any state must separately or together with others, take urgent and also long term measures to fight this phenomenon. If climate change continues; negligence of states in performing due diligence in this regard may lead to their international responsibility or even their incapability for governing the state in accordance with “good governance principles”.

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Introduction

“Climate change” is a significant and inevitable threat against human being. Unfortunately, many states are not interested in accepting related effective obligations; on the other hand, people around the world do not predominantly have any exactions or even enough information in this regard. Although many believe that nuclear war is the greatest threat against human, many of the scientists strongly believe that climate change is

the most serious threat against survival of human being.⁵³ Climate change is a worldwide issue that causes serious adverse effects on human, animals, plants, and Earth Planet as a whole.¹

Undoubtedly, climate change occurs due to ambitious behavior of human populations around the world. Indeed, consumption of fossil fuels, fast development of urban areas, construction of huge dams, inefficient water programs and industrial

animal husbandry play main roles in the occurrence of climate change, through emission of enormous amounts of greenhouse gasses to atmosphere, which in turn increases the average temperature of the world; a phenomenon which is known as “global warming”. According to the National Ocean and Atmospheric Administration (NOAA) of the United States analysis that has been started from 1880, the Earth’s temperature is increased on average 2 °C since the end of the 19th century. Accordingly, year 2016 has been the hottest recorded year and year 2017 has a similar situation.¹

Historically, developed countries which started industrialization process sooner, have larger share in the greenhouse gases accumulation. Of course, the role of emerging economies like China, India, Brazil, Indonesia and oil countries in recent decades is undeniable. Notwithstanding the constant rate of greenhouse gasses emitted by developed countries, the emission rate of developing countries are increasing more rapidly.²⁻⁴

The international community has recognized the serious hazard of climate change and some international instruments have been concluded in this regard, among which United Nations Framework Convention on Climate Change (UNFCCC)⁵ and the Kyoto Protocol (1997) are the most important ones. One of the most recent agreements in the field of climate change is the Paris Agreement.⁶ According to this agreement some policies will be applied from 2020 to solve some difficulties in universal fight against climate change, such as budgeting and adaptation actions. Indeed, the main aim of Paris Agreement is to increase global temperature 1.5C instead of 2C at the end of the 21st century.

On the other hand, the right to health is known as a basic and fundamental right mentioned in several human rights instruments since approval of Human Rights Declaration in 1948. This right is so wide that can direct the human being to welfare and well-being. Many of jurists consider this as “the right to have the highest attainable standard of physical and moral health”.

All human rights originate from “human dignity” and the main subject of all human rights is the human.⁷ Moreover, all aspects of human rights are universal, impartible and associated with each other. As a result, all of the states shall support and improve human rights irrespective of their political, economic and cultural systems.⁸ Economic and cultural problems, lack of civil demands, lack or limited infrastructures and capacities, and lack of political trend in some states are the main barriers of full realization of human rights, globally. Therefore, realization of the right to health as a comprehensive right necessarily depends on the government’s approach, short and long-term planning

in health area and existence of some capacities and capabilities. In addition, climate change threat the human’s right to health and cause a wide range of difficulties in realization of this right. The aim of this study is to consider the probable effects of climate change phenomenon on realization of human rights, including the right to health and other related ones.

Human Rights: Irresolvable

Regardless of the race, religion, sex, nationality, skin color and etc., the human rights are rights and freedoms for all human beings. These are the rights that have been determined and ratified internationally for each person. Noticeably, human rights are highly associated with each other and are not separable, and all together build the real meaning of human rights. For example, it is impossible to interpret the right to life without right to food, house, access to fresh water or immunity from torture. The right to health is another instance which has been designed to protect individuals from social and economic privations and inequities, but has strong relationships with some civil and political rights too. Therefore, all human rights together are crucial for protection of human dignity and survival.⁹

Right to Health

Often, the right to health is associated with making hospitals and other related health care centers, but this right is not limited to these and has a very wide range which finally directs each person to a healthy life. The Committee on Economic, Social and Cultural Rights which monitor the International Covenant on Economic, Social and Cultural Rights set some indexes as “determinants of health”, including clean and enough accessible water, healthy and enough food, decent house for living, health literacy, accessibility of information in this area, and gender equality.

According to the right to health which has been reflected in several international, regional and domestic human rights instruments, all of the individuals enjoy some other rights such as right to existence of a system for protection of health for every person in a maximum level and accessible for everybody, right to prevent and control of diseases, right to access to essential drugs, right to mother and child’s health and access to healthy childbirth, right to easy access to healthy delivery, right to access equitable and on time health services, right to health literacy and right to public cooperation in making decisions in national health scope.¹⁰

Easy and acceptable access to the highest attainable health services, goods and facilities should be provided for all persons with no discrepancy. Accordingly, public health facilities must be accessible physically and objectively for all in any member of

the “International Community”. Moreover, protected sectors of populations such as children, the elderly, persons with physical and mental disabilities and pregnant mothers must have secure access to these facilities. Realization of the right to health requires long-term planning. However, states are responsible to take some immediate measures to provide the urgent needs of human beings. In fact, states should deliver all of the people relative services for realization of the right to health on time and effectively by using all available sources. Bad economic situation of the state does not exclude its responsibility to take measures for realization of the right to health. Of course, availability of the sources and level of development of the country are two important factors for assigning responsibilities of different states.

Relationship Between the Right to Health and Other Human Rights

With regard to the determinants of health, factors improving the right to health are beyond the health services. In other words, enjoyment of the right to health depends on enjoyment of other human rights; on the other hand, this right has an important role in realization of many other rights. For example, the right to life, food, water, healthy environment, appropriate life standards, house, freedom against any discrepancy, access to information and enjoyment of scientific improvements are associated with the right to health and full enjoyment of it. Obviously, the right to health is connected with different generations of human rights, so it is basic and necessary for full enjoyment of other important human rights.^{17, 18}

The Status of Environment in Human Rights

It seems that the notion of environment is so simple. However, it is so complicated that no precise definition is obtained. Pursuant to a definition, environment is that part of the world that, according to the present knowledge of human, all forms of life are flowing. According to the European Community definition, any human's relationship with water, air, soil and other biological aspects is called environment. As a result, despite different definitions for environment, serious debates on the subject are still ongoing.¹⁹

Due to the right of human to healthy and sustainable environment and importance of environment for human survival, the environment is mentioned in more than 90 constitutions worldwide.²⁰ As psychological and physical health of human being can be achieved only in a healthy environment, the right to environment is an inseparable and key component of human rights in many countries. The listed guarantees for the right to healthy environment in constitutions of most of the countries oblige them to prevent damage to

the environment and set the protection of environment and natural resources as their most important task.²¹

With appraisal of different threats against environment, it can be said that the most serious and comprehensive threat against global environment is the phenomenon of “climate change” and its adverse effects.

Climate Change

Climate change is an atmospheric-ocean phenomenon that occurs in planetary scale in which heating process happens in some areas and cooling process happens in the others.²³ Indeed, there are two important set of factors involved in the occurrence of climate change, including natural and man-made factors. Natural factors are inevitable and occur during long periods. Based on the previous studies, the world climate conditions has frequently changed generally. These changes are consistent with natural logic and no urgent action is suggested. Man-made factors, on the other hand, have created structural and sustained changes.

Human activities, in developed and developing countries cause greenhouse effect in the atmosphere, increasing the temperature of Earth and as a result climate change in a global scale. This fact that both developed and developing states are producing greenhouse more and more just make climate change effects stronger.⁴

Effects of Climate Change

So long after climate change due to global warming declared by Arrhenius in 1896, the subject became one of the most important international concerns. Climate change comes with serious adverse effects such as floods and raise in the sea level in crowded coastal areas such as Bangladesh, Caribbean beaches, Gulf of Mexico, Florida, Southern beaches of the United States and India. Northern parts of the Earth such as Scandinavian, Siberia and Canada would face more raining, but intercontinental regions will sharply become dry and its soil will not be usable. Polar tundra and natural glaciers will melt, the ocean's water level will rise, and many island micro-states will disappear. In addition, some diseases such as malaria will increase.²⁴ Reduction in fresh water is an important issue causing international wars. Of course, climate change is a global problem with disproportionate effects; for example, indigenous people around the world will be more affected than other people.

Adverse effects of ozone layer erosion on human are inevitable. It is estimated that with 0.5% decrease in the ozone layer annually, more than 940 thousands will be added to the number of people at higher risk of skin cancer. Eye cancer in livestock and destruction of vital cereals such as wheat, rice and corn are other

effects of ozone layer erosion. It is estimated that the rate of employment will decrease on average 2% annually until 2020 due to climate changes. Damages of floods occurring due to climate change was about 50 billion in 2013 and have been increased annually. It is also estimated that 150 to 200 million individuals will be homeless up to 2050 because of desertification, raising the level of sea water, and bad climatic conditions.²⁵ Climate change will disrupt the development process all around the world and reduce the annual income by 23% on average until 2100.³³

As an instance, it is estimated that the average temperature of Iran would increase 5.1 to 5.4 by multiplying the carbonic gas concentration. Change in the climate patterns, lack of water sources, destruction of coastal areas, destruction of agricultural products, forest destruction, and drought are direct consequences of climate change in Iran.²⁶

Effects of Climate Change on the Right to Health

It is internationally approved that there is special linkage between the climate change and right to health.²⁷ The components of this association is emphasized in United Nations Framework Convention on Climate change.⁵ Article 1 of this convention notifies the adverse effects of climate change including effects on the health and welfare of human. Also, in the preamble of Paris Climate Agreement (2015), the states are asked to perform their actions against climate change with respect and development of their human rights obligations, including their obligations about the right to health.⁶

The Committee on Rights of the Child asks the state members in its general comment no. 15 in 2013,²⁸ about the right of the child to enjoy the highest attainable standard of health, take measures to reduce the conditions in the environment which are hazardous for the health of children, especially against climate change which is the biggest threat for them. Consequently, negligence to perform urgent actions against climate change, in the form of decrement or adaptation actions for protecting vulnerable individuals is in fact violation of human rights obligations, and causes significant problems for the realization of the right to health.²⁹

According to the results of the fifth conference of Inter-Governmental Panel of Climate Change, climate change is happening and greenhouse gasses emission due to human activities is its most important reason. It is also confirmed that climate change is a clear threat for fulfilment of human rights including the right to health.³⁰

Climate change affects the health scope through different ways: 1) Directly, through events such as natural disasters or change in average temperature

and 2) indirectly through reduction in agriculture products and increase in communicable disease and homelessness. It is estimated that 400000 people around the world die early death because of climate change.³¹ Also, about 250000 individuals die because of malnutrition, malaria, diarrhea, and heat dissipation.³²

The Effects of Climate Change on Other Human Rights

According to wide domain of climate change, many rights which are ratified for all human beings would be threatened by adverse effects of it. In this part, some of the most important rights which have close connection with the right to health and are breached directly due to climate change are discussed.

Right to Life

Due to the fact that right to life is the most basic human right, other rights originate from it. Accordingly, protecting the right to life of citizens is the main duty of states.³⁴ In different cases claimed in domestic and international tribunals, the first excuse of defendants has been breach of the right to life of citizens. “Kivalina v. ExxonMobile Corporation in Federal Court of San Francisco,³⁵ “Niger River Delta v. Oil Companies and government of Nigeria”, “Inuits v. United States” in Inter-American Court of Human Rights,³⁶ “Urgenda Foundation v. Netherlands” in District Court of Hague and “Massachusetts v. United States Department of Health and Human Services” in the United States Court of Appeals are cases in the field of climate change in which breach of the right to life has been one of the bases of claims. According to these claims, climate change is threatening the life of individuals by changing their lifestyle, destroying food and water sources, air pollution and annihilating the animals whose lives are dependent on them. Therefore the defendants claim that the governments and private sectors that contribute to greenhouse gases emission are indeed breaching their right to life.

In fact, consequences of climate change, in addition to the prevalence of different diseases and destroying the lifestyle of people, threat of the life of persons, and lack of due diligence of states would result in breach of this basic right of human beings.

Right to Access to Fresh Water

The right to access fresh water is the main determinants of the right to health which has been recorded in many international instruments. The United Nations General Assembly declared in resolution no. 64/292³⁹ that the right to sanitary waste disposal system, access to the healthy water and sewage drainage system are basic

human rights. The right to water let all the individuals to have access to the healthy water which is economically acceptable for personal and home consumption.³⁹

Recent studies show that global warming will increase sharply in the mid 21st century, even more than predictions.⁴⁰ Global warming affect not only the quantity of accessible water, but also the quality of rivers and lakes waters. Based on the fifth assessment conducted by Inter-Governmental Panel on Climate change, for each degree increase in global temperature, about 7% of the world population would face 20% decrease in renewable fresh water sources. It is also estimated that lack of water security negatively affects the global economy (about 500 billion\$ each year). Therefore, there is no doubt that climate change makes a proper ground for breach of the right to water.⁴¹

Right to Food

Right to food is consists of the right of escape from hunger and easy access to the food with better quality and quantity. This right has been reflected in article 25 of Universal Declaration of Human Rights¹⁶ and after that in many other international and regional conventions. Also, it is described in the U.N. Millennium Development Goals that all member states shall perform actions with all sources to reduce the poverty and hunger in the world by 50% up to 2015.⁴³

Phytoplanktons, as the last ring of food chain in the seas, are going to be annihilated due to ozone layer erosion, and this threatens the population of sea fishes. As seafood constitutes a significant part of the food-basket of many people around the world, any reduction in seafood may cause unsafety for food security of half of the world population. Although agriculture may face fundamental changes in future and reduce bad effects, now the global warming is destroying agricultural products and increasing the rate of hunger. Therefore, the right to food is negatively affected through climate change, especially in poor developing countries.

Right to Property

The international instruments of human rights confirm the right to property as a fundamental right. For example, Universal Declaration of Human Rights confirms that the right to property is comparable with such rights as life, freedom and security. Article 25 to 32 U.N. Declaration on the Rights of Indigenous Peoples confirms the right to property of these people to their territories and resources in those lands. Nowadays, indigenous nations around the world, whose identities are highly associated with their territories, are in danger of losing their properties and lands because of climate change.⁴⁴

In the 20 century, the level of sea water was raised

by 10 centimeters and it is estimated that it will raise about 1.5 meter at the end of the 21st century.⁴⁵ It is obviously probable that cities and countries located in low height lands would be under water and disappear from the maps.⁴⁶ In Iran, local fishermen in Oman Sea coasts have to move their fishing cottages because of the progress of sea water in the beach for about 3 meters.⁴⁷ People in Alaska will lose 86% of their lands due to going underwater. In Inuits case, they believed that the United States government has breached their “right to use indigenous lands” and their right to property, by grave contribution in emission of greenhouse gases and consequently climate change.⁴⁸

Right to Good Governance of the Country

The right to good governance of the country is one of the important citizen’s rights. In fact, this right is one of the components of “good governance” principles. Regarding U.N. Development Program, good governance is an endeavor toward rule of law, transparency, accountability, participation, equality, effectiveness, responsiveness, and having strategic perspective in applying political, economic, and administrative authorities. The components of good governance are among the citizens’ rights in most countries and the states should use these principles in different aspects of state administration.⁴⁹

The assessments of good governance elements in both developing and developed countries show that along with improvement of good governance elements, environmental problems decrease. Other researches show the positive effect of good governance in reduction of greenhouse gases emission and as a result climate change.⁵⁰

In *Urgenda v. Netherlands* case, the plaintiffs claimed that the Netherlands government has to reduce its greenhouse emission by 25 to 40%, according to the duty of government to good governance of the country in favor of the present and future generations. High emission of greenhouse gases by private and public sectors as the main cause of global warming and climate change has a direct relationship with good governance and competence of the government for governing the country. Although based on the UNFCCC, international obligations of states for combating against climate change is the subject of “common but differentiated responsibilities” and relative capabilities of different states, all of the states, regardless of their capabilities and level of development, are responsible for performing some commitments against climate change, due to the common responsibilities of all states.⁵ Therefore, disability or lack of the tendency of a state in fighting against climate change and the following bad effects on citizens can be considered as the breach of the right to good governance of the country.

Right to Peace and Security

The right to peace was propounded in 1967 at Human Rights Commission of U.N. for the first time and accepted in Declaration on the Preparation of Societies for Life in Peace, in 1978. This Declaration emphasized the holly duty of states for establishment of life in peace for everyone, and announced the states responsible for such a peace. Noticeably, the first and most important aim of any state in international relations is making peace and security for its citizens.⁵⁰ Clearly, full enjoyment of different human rights, including the right to health, is only possible in peace and security. As the Security Council declared in 1992, peace does not mean lack of armed conflicts between states; therefore, any inconsistency in social, economic and political issues and also breach of human rights are serious threats against universal peace and security.⁵¹ Population explosion, immethodical immigrations, destruction of environment, global warming and climate change are the main threats in contemporary world. In addition, lack of farmlands, water, forests and fish adversely affect international peace and security.⁵² Therefore, global warming, ozone layer erosion, tropical forests destruction, droughts, lack of water, and river pollution are the threats for peace and security and might even lead to military conflicts.

Among areas with high rate of lack of water, Middle East is one of the areas mostly exposed to armed conflicts on the water sources. A clear instance is the serious and long dispute between Turkey, Iraq and Syria over the Tigris and Euphrates rivers.

Negligence in performing due diligence by states, regardless of their international obligations, may result in breach of the right to peace and security. Naturally, such a breach can lead to breach of the right to health and wide domain of other human rights.

Right to Healthy Environment and Sustainable Development

Along with the increase in environmental problems, the necessity of creation of international environmental regulations is felt. The right to healthy environment has been reflected in several international instruments such as Stockholm Rio Declarations on the Environment and Sustainable Development.

Sustainable development and its elements have been stressed in most of the environmental, social and economic international treaties, directly or indirectly. Based on the fourth principal of the Rio Declaration, in the process of attaining sustainable development, protection of environment is an inseparable part.¹⁹

Among all human rights we studied, the right to healthy environment has the most direct connection with climate change. It is clear that climate change adversely affects other human rights through

irreparable injuries to the living environment of human. Not performing urgent and proportional commitments by states against climate change would result in destruction of environment and subsequently breach of the right to healthy environment of their citizens.

Conclusion

Climate change due to human activities, makes a proper field for breach of human rights globally, and as we see “right to health” is affected absolutely. According to principal of “common but differentiated responsibilities”, most of the burdens of combating against climate change are on the shoulders of developed states and developing countries have much less obligations; but at least have common responsibilities. Rather, all of the states have clear international obligations for protecting human rights in their territories. Therefore any state must separately or together with others, take urgent and also long term measures to fight this phenomenon. If climate change continues; negligence of states in performing due diligence in this regard may lead to their international responsibility or even their incapability for governing the state in accordance with “good governance principles”.

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