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Human Rights Violations and Climate Change: The Last Days of the Inuit People?

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“What is happening affects virtually every facet of Inuit life - we are a people of the land, ice, snow, and animals. Our hunting culture thrives on the cold. We need it to be cold to maintain our culture and way of life. Climate change has become the ultimate threat to Inuit culture.”¹

- Sheila Watt-Cloutier

INTRODUCTION

The climate is changing. There is little debate left with regard to this statement.² However, the world is still grappling with what exactly this change means. The Secretary General of the United Nations, Ban Ki-moon, recently stated that he is “convinced that climate change, and what we do about it, will define us, our era, and ultimately the global legacy we leave for future generations.”³ Global Climate Change (“GCC”) has the potential to affect the world’s most developed groups, however, the people whose lives will likely be changed most by GCC are those who have “contribute[d] the least to greenhouse emissions.”⁴

One of the groups that will be most affected by GCC are the Inuit of the Arctic region. There is a large degree of certainty that the Arctic’s climate is changing and as a result the Inuit people are being forced to change their way of life, their cultural identity, and in some cases, they are being forced to leave their ancestral lands. While the Inuit people must pay the “highest price ...

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¹ Inuit Circumpolar Conference, Presentation at the Eleventh Conference of Parties to the UN Framework Convention on Climate Change, Montreal: *The Climate Change Petition by the Inuit Circumpolar Conference to the Inter-American Commission on Human Rights* (Dec. 7, 2005), available at <http://www.inuitcircumpolar.com/index.php?ID=318&Lang=En>.

² See Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2007: Impacts, Adaptation and Vulnerability, International Panel on Climate Change*, <http://www.ipcc.ch/index.htm> (last visited Apr. 17, 2010). The IPCC’s latest report substantially narrowed the questions left regarding a changing climate.

³ Second Decade of the World’s Indigenous People, *Climate Change and Indigenous Peoples*, available at http://www.un.org/esa/socdev/unpfi/en/climate_change.html (last visited Apr. 17, 2010).

⁴ *Id.*

[and] are directly threatened by these rapid climatic changes”⁵, because of their traditional way of life, they contributed little to GCC. This unfortunate paradigm, that those most affected by GCC are not responsible for its creation, is a theme that runs tragically true for many native people that lead a traditional and near carbon-free life. This Note will explore the effects of GCC on the Inuit people of the Arctic, and how this change is violating their human rights. This paper will also discuss the Inuit petition filed in 2005, alleging violations of the human rights of the Inuit people by the United States. Lastly, it will explain the notion of human rights violations due to GCC, and the refusal of nations to take these violations seriously.

II. GLOBAL CLIMATE CHANGE

Before one can begin any discussion on GCC, it is imperative that a basic understanding of this change is developed. While it is true that Earth naturally experiences climate variations, the variations that we are experiencing are directly linked to industrialization and the consumption of fossil fuels.⁶ The Intergovernmental Panel on Climate Change (“IPCC”), the world’s leader in the assessment of climate change, was established by the United Nations Environment Programme and the World Meteorological Organization.⁷ The IPCC’s latest report determined that the overall global temperature has increased during the twentieth century, and that the average sea levels and temperatures have climbed.⁸ The increase in ocean temperature is leading to more intense storms, glacial and icecap thawing, and significant sea level rise.⁹ The IPCC also found, with “more than 90 percent confidence, — that carbon dioxide and other heat-trapping greenhouse gases from human activities have been the main causes of warming since 1950.”¹⁰

With these unnatural changes to the climate come many unnatural results. Island nations and communities are being swallowed by the sea and/or sinking as the permafrost begins to melt¹¹ and hurricanes and storms become more intense, leading to increasingly devastating results.¹² As these tangible effects are seen throughout the world, the concept of GCC has moved from theory to fact. This latest IPCC report narrowed greatly the uncertainties over what the human role in climate change was.¹³ In 2007, General Ban Ki-moon stated that “the potential impact of global warming is ‘so severe and so sweeping that only urgent, **global** action will do.’”¹⁴

⁵ John Crump, *Environmental Change in Polar Regions: Snow, Sand, Ice, and Sun: Climate Change and Equity in the Arctic and Small Island Developing States*, 8 SUSTAINABLE DEV. L. & POL’Y 8, 9(2008).

⁶ IPCC, *supra* note 2. “The latest IPCC findings now show clear and convincing evidence (90% certainty) that our use of fossil fuels and emission of greenhouse gases are warming the Earth well beyond normal background levels, bringing far reaching consequences for the state of global ecosystems and the future of human development.” *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Ruth Gordon, *The Climate of Environmental Justice: Taking Stock: Climate Change and the Poorest Nations: Further Reflections on Global Inequity*, 78 U. COLO. L. REV 1559, 1572-75 (2007).

¹⁰ Elisabeth Rosenthal & Andrew C. Revkin, *Panel Issues Bleak Report on Climate Change*, N.Y. TIMES, Feb. 2, 2007 available at <http://www.nytimes.com/2007/02/02/science/earth/02cnd-climate.html> (last visited Apr. 17, 2010).

¹¹ States News Service, *Failing To Curb Global Warming Could Cost Nation Hundreds Of Billions By End Of Century, New Report Finds*, Sept. 10, 2009.

¹² Iris Lai, *Australia’s Coastal Region Threatened by Rising Sea Level*, BESTWIRE, Nov. 5, 2009.

¹³ IPCC, *Climate Change 2007: The Physical Science Basis, Summary for Policymakers, 2007*, <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-spm.pdf> (last visited Apr. 17, 2010).

¹⁴ CBS News, UN: *Climate Change Here and Getting Worse*, <http://www.cbsnews.com/stories/2007/11/16/world/main3511705.shtml> (last visited Apr. 17, 2010) (emphasis added).

A. The United States' Inaction Regarding Global Climate Change

The United States is the slowest developed nation to act in response to GCC. Until recently, the country had a president who doubted the science behind GCC, and felt the little science he did believe was not sufficient to influence policy.¹⁵

In addition to our former president's inaction, the United States has a long history of dragging its feet regarding to GCC. In 1992, the United Nations ("U.N.") sponsored a conference in Rio de Janeiro, Brazil, named *The Earth Summit*, which launched the U.N. Framework Convention on Climate Change.¹⁶ The United States attended this meeting; however, President George H. Bush refused to sign the Biodiversity Treaty to Protect Endangered Species because he felt it would harm American businesses.¹⁷ This fear of harming American business has continued to hinder American action. Until Copenhagen in late 2009, no United States President had attended a U.N. climate change conference. In 1997, Vice President Al Gore attended the U.N. meetings in Kyoto, Japan.¹⁸ This meeting resulted in the Kyoto Protocol, which the United States has to date not ratified.¹⁹ Former President George W. Bush's relationship with the U.N. on the issue of GCC was contentious. Though President Bush did not attend an international meeting on this issue, the American envoy that attended the 2007 meetings in Bali was booed.²⁰

While many nations have worked to alleviate GCC, the United States has played an extremely active role in preventing regulation. On a federal level the United States has repeatedly declined to regulate two human-induced causes of GCC: power plants and vehicle emissions.²¹ This refusal has led to an increase in emissions of CO₂ rather than a decrease.²² In addition to its inaction, the United States has attempted to mislead the public and industry as to the grave dangers posed by GCC.²³ President Bush's administration denied the scientific foundation on which the IPCC's reports is based, and requested that its own scientists produce their own study to determine the accuracy of IPCC's report.²⁴ This report, entitled the Climate Actions Report,²⁵ affirmed the IPCC's report, and found that GCC is a human-induced problem.²⁶ However, this did not bring President Bush to action. Rather, the Bush administration did not even attempt to stop or admonish the statements of politicians, such as Senator James Inhofe of Oklahoma, Chairman of the Senate Committee on Environment and Public Works, who on the Senate floor stated that GCC is a "hoax."²⁷ This inaction on the part of the administration led to the Union of Concerned Scientists chastising the Bush administration for "misrepresent[ing] scientific knowledge and

¹⁵ Peter Baker and Steven Mufson, *Bush's Climate Remarks Weighed for Policy Shift*, THE WASHINGTON POST, Jan. 27, 2007, at A01.

¹⁶ Darren Samuelsohn, *Obama weighing appearance at Copenhagen climate talks, Hoyer says*, N.Y. TIMES, Jun. 4, 2009.

¹⁷ *Id.*

¹⁸ Samuelsohn, *supra* note 16.

¹⁹ IPCC, *supra* note 2.

²⁰ Samuelsohn, *supra* note 16.

²¹ Cloutier, *supra* note 1, at 107.

²² *Id.* at 105-107.

²³ *Id.* at 109.

²⁴ *Id.* at 109.

²⁵ U.S. Department of State, *Third National Communication of the United States of America Under the United Nations Framework Convention on Climate Change*, May 2002, ("U.S. Climate Action Report - 2002"), available at <http://www.gcric.org/CAR2002/> (last visited Apr. 17, 2010).

²⁶ *Id.*

²⁷ *Id.*

misle[ading] the public about the implications of its policies” about GCC and further, for relying on “disreputable and fringe science.”²⁸

Indeed, it wasn't until 2007, seven years into his presidency, that President Bush first addressed the need to confront GCC in his State of the Union address.²⁹ While this move was lauded by many as a step in the right direction, it did not result in any positive steps to curb GCC and highlights the Bush administration's refusal to seriously address GCC.

There was great hope when President Obama took office that the United States would begin to take action to combat GCC. However, to date little or no action has occurred. Yvo de Boer, the U.N. climate chief, stated that the U.N. has emissions figures and promises “from all industrialised countries, with the exception of the United States.”³⁰ President Obama pledged his attendance at the U.N. climate meeting in Copenhagen, finally bringing a United States President back to the GCC discussion table.³¹

While President Obama's attendance was historic, the meeting failed to garner any real commitments from the largest carbon emitters.³² The timing of the conference was in the midst of the largely watched health care debate, thereby limiting media attention and the attendance of American Senators.³³ While Obama did speak to the conference, many were left disappointed, not by what he said but what he didn't say.³⁴ Many leaders were hoping for a call to action, or a promise of a change in course, or even some simple concrete promises on the part of the United States, but Obama provided none.³⁵ Despite disappointment, President Obama's speech did bring some hope, as he promised the United States will “cut emissions 17 percent from 2005 levels by 2020 and more than 80 percent by 2050.”³⁶ However, De Boer stated that these cuts that have been proposed, “between 16 and 23 percent, fall far short of what scientists say is needed to head off serious impacts from global warming.”³⁷ Further, while President Obama did make promises of action on the part of the United States, he prioritized healthcare and jobs bills, which were taken up by Congress before GCC legislation. This has created some fear that promises and compromises needed to pass these bills could forestall any hope of real climate legislation.³⁸ Some see the failings in Copenhagen as positive to some degree, as it did not allow the international community to get ahead of Congress, a problem some say occurred in Kyoto.³⁹ The real test of the United States'

²⁸ Union of Concerned Scientists, *2004 Scientist Statement on Restoring Scientific Integrity in Policymaking*, Feb. 18, 2004, available at http://www.ucsusa.org/global_environment/rsi/page.cfm?pageID=1320 (last visited Apr. 17, 2010).

²⁹ Hari M. Osofsky, *The Inuit Petition as a Bridge? Beyond Dialectics of Climate Change and Indigenous Peoples' Rights*, 31 AM. INDIAN L. REV. 675, 680 (2007).

³⁰ John Vidal and David Adam, *Barack Obama to attend Copenhagen climate summit*, THE GUARDIAN U.K., Nov. 25, 2009, available at <http://www.guardian.co.uk/environment/2009/nov/25/barack-obama-copenhagen>.

³¹ *Id.*

³² *Copenhagen Deal May Present Challenge For Congress On Climate Action*, DEFENSE ENVIRONMENT ALERT, Vol. 18 No. 1, January 5, 2010.

³³ *Id.*

³⁴ *Id.*; Suzanne Goldenberg, *Obama offers Copenhagen little hope*, GUARDIAN U.K., December 18, 2009, available at <http://www.guardian.co.uk/commentisfree/cif-green/2009/dec/18/barack-obama-speech-copenhagen-climate> (last visited Apr. 17, 2010).

³⁵ Goldenberg, *supra* note 34.

³⁶ *Copenhagen Deal*, *supra* note 32.

³⁷ Vidal, *supra* note 30.

³⁸ Sarah Laskow, *Climate Change Bill Stalls in Senate*, available at <http://www.care2.com/causes/global-warming/blog/climate-change-bill-stalls-in-senate/> (last visited Apr. 17, 2010).

³⁹ Vidal, *supra* note 30.

commitment to GCC legislation will occur when — or if — the bill reaches Congress.

B. GLOBAL CLIMATE CHANGE AND ARCTIC

Both the IPCC's Fourth Assessment Report and the 2005 Arctic Climate Impact Assessment⁴⁰ ("ACIA"), a report prepared by more than 300 scientists from fifteen countries, concluded that GCC will have a dramatic impact on the Arctic region, resulting in an increase in Arctic temperatures and leading to the loss of glaciers and sea ice.⁴¹ The Arctic region has warmed at twice the rate of the rest of the world.⁴² Because of this rapid warming the area has seen changes to "sea ice, the Greenland Ice Sheet, mountain glaciers, and aspects of the arctic carbon cycle including altering patterns of frozen soils and vegetation and increasing methane release from soils, lakes, and wetlands."⁴³

These changes to the ecosystem will "drastically shrink marine habitat for polar bears, ice-inhabiting seals, and some sea birds, pushing some species toward extinction."⁴⁴ Further, when these species are forced into extinction, new species will move north, bringing plant, animal and insect diseases never seen in the Arctic, and can be transmitted to humans.⁴⁵ The Inuit people depend on the native animals not only for food, but also as a "basis for cultural and social identity." As the ecosystems changes, so must the Inuit way of life.

III. THE INUIT PETITION: HUMAN RIGHTS AND GLOBAL CLIMATE CHANGE

The Inuit culture is unique in that it will not only be deeply impacted by GCC while contributing little or no carbon to the human-induced change the Arctic now faces. As such, the native people of the Arctic Circle are ideal for asserting standing for suits and petitions regarding climate change.⁴⁶ Many organizations have assisted the Inuit in asserting these suits and petitions. However, it is important to first understand the unique lifestyle of the Inuit people and how this traditional way of life relies on the Arctic's current geographical and climatological features.

A. THE INUIT CULTURE

The Inuit of the Arctic are a linguistic and cultural group that descends from the Thule people.⁴⁷ The Inuit groups share a common culture, including "dependence on subsistence

⁴⁰ Susan Joy Hassol, *Impacts of a Warming Arctic: Arctic Climate Impact Assessment*, 31-34 (Cambridge Univ. Press 2004) ("ACIA"), available at <http://amap.no/acia/> (last visited Apr. 17, 2010). This report is "an international project to collect and evaluate knowledge on climate variability, global warming, and increased UV radiation in the Arctic and their effects on the Arctic region, its ecosystems and communities."

⁴¹ Paul Eccleston, *Arctic ice melting 'faster than predicted'*, The Telegraph, Apr. 24, 2008, available at <http://www.telegraph.co.uk/earth/earthnews/3340633/Arctic-ice-melting-faster-than-predicted.html>.

⁴² World Wildlife Fund, *Arctic Climate Feedbacks: Global Implications*, WWF International Arctic Programme (Martin Sommerkorn & Susan Joy Hassol, eds. 2009).

⁴³ *Id.*

⁴⁴ IPCC, *supra* note 13.

⁴⁵ *Id.*

⁴⁶ See Philip J. Fortune and J. Daniel Puckett, *Where Do We Stand On Climate Change?*, 38 RUT. L. REC. ___ (forthcoming Fall 2010).

⁴⁷ Sheila Watt-Cloutier, *Petition to the Inter American Commission on Human Rights Seeking Relief from Violations Resulting from Global Warming Caused by Acts and Omissions of the United States*, Dec. 7, 2005, at 1, available at http://www.ciel.org/Publications/ICC_Petition_7Dec05.pdf (last visited Apr. 17, 2010).

harvesting, sharing of food, travel on snow and ice, a common base of traditional knowledge and adaptation to similar Arctic conditions.”⁴⁸ While their culture now includes some “western innovations,” they continue to depend on traditional methods for food and housing.⁴⁹ This traditional way of life provides a “spiritual and cultural affirmation, and is crucial for passing skills, knowledge and values from one generation to the next.”⁵⁰ The rich history and lifestyle of the Inuit is based in the Arctic and this has allowed them to develop an “intimate relationship with their surroundings.”⁵¹

GCC is drastically altering this culture. There are three significant changes to the Arctic that will likely dramatically impact their way of life: melting ice and glaciers,⁵² thawing permafrost,⁵³ and sea level rise.⁵⁴ As the sea level rises there will be drastic alterations to the species and habitat of the Arctic, these alterations will lead to the loss of the animals and plants that the Inuit lifestyle depends on.⁵⁵ Further, the traditional Inuit igloos are becoming difficult to craft, as the deep and dense snow that these traditional homes require becomes scarce.⁵⁶ As a result, Inuit people are being forced to rely on cabins and tents that often lack the insulation provided by the igloo, making the winter months more difficult to endure.⁵⁷

Further, the Inuit culture is being impacted as hunting trips, vital for food and cultural development, are becoming less frequent and more dangerous.⁵⁸ These hunting trips are vital to teach younger generations the intricate nature of the Inuit practices.⁵⁹ The knowledge that elders pass to younger generations of these traditional practices is becoming inaccurate as the climate and geography of the Arctic changes.⁶⁰

Nearly all climate models predict that temperature change, and what was formerly known as global warming, will be most greatly felt in the Arctic region.⁶¹ Some groups, such as the island village of Kivalina, a native Alaskan village, have been told that they not only face a change in the way they conduct their lives, but also where they live their lives.⁶² The Army Corps of Engineers stated that this village will have to relocate, as it is in grave danger due to the melting permafrost and the sea level rising.⁶³ These changes are forcing this village to give up its home and land, with which they have both a real property, and spiritual, connection.⁶⁴ The cost of relocating this one village is estimated at up to \$400 million, leaving its citizens to ask not only how to leave their native land, but also how to pay for the move?⁶⁵ This village is just one of the hundreds of villages that

⁴⁸ *Id.* at 1.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 35.

⁵² *Id.* at 24.

⁵³ *Id.* at 25.

⁵⁴ *Id.* at 24.

⁵⁵ *Id.*

⁵⁶ *Id.* at 42.

⁵⁷ *Id.*

⁵⁸ *Id.* at 78.

⁵⁹ *Id.*

⁶⁰ *Id.* at 79.

⁶¹ Eccleston, *supra* note 41.

⁶² Felicity Barringer, *Flooded Village Files Suit, Citing Corporate Link to Climate Change*, N.Y. TIMES, Feb. 27, 2008.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.* See also The Kivalina Complaint, available at

will be drastically affected by GCC.

IV. The Inuit Petition

In late 2005, sixty-two Inuit people of the Canadian and Alaskan Arctic regions⁶⁶ filed a petition (“the petition”) with the Inter-American Commission on Human Rights (“IACHR”).⁶⁷ The IACHR is one of two Inter-American bodies that work to “promote and protect human rights.”⁶⁸ It is governed by the Organization of American States (“OAS”).⁶⁹ The OAS was created in 1949 to promote the “observance and protection of human rights.”⁷⁰ One document the OAS created to meet these ends was the American Declaration on the Rights and Duties of Man.⁷¹ In 1969, the OAS held a meeting on human rights that produced the American Convention on Human Rights, an additional group of protected rights.⁷² However, only twenty-five of the thirty-five members of OAS ratified this convention – and neither the United States nor Canada is one of these twenty-five.⁷³ Though the United States is not a member of the American Convention on Human Rights, the Inuit petition noted that because the petition raises “transgressions of the American Declaration on the Rights and Duties of Man, to which the United States committed, the Inter-American Commission on Human Rights has jurisdiction to resolve the dispute.”⁷⁴ Further, the petition noted that while the treaty requires one to exhaust domestic remedies before seeking IACHR relief, this can be “waived if the IACHR finds an exception such as the absence of effective remedies or the inability to exhaust remedies for lack of resources.”⁷⁵

The petition was filed with the help of the Center for International Environmental Law and Earthjustice.⁷⁶ It claimed that the United States’ climate change policy violated the human rights of the Inuit people.⁷⁷ The United States was singled out due to its failure to ratify the Kyoto Protocol,⁷⁸ and because it had “repeatedly declined to take steps to regulate and reduce its emissions of the gases responsible for climate change.”⁷⁹ This petition is the first to connect GCC and human rights.⁸⁰ The petition was filed under the rights set out and recognized in the American Declaration of the Rights and Duties of Man.⁸¹ The 175 page petition sought relief from the following violations

<http://www.climatelaw.org/cases/country/us/kivalina/Kivalina%20Complaint.pdf> (last visited Apr. 17, 2010). The complaint was filed against oil companies such as BP and ExxonMobil, based on public nuisance and civil conspiracy doctrines. This suit was thrown out by the California District Court, but this decision will likely be appealed.

⁶⁶Crump, *supra* note 5, at 11.

⁶⁷ Sara C. Aminzadeh, *A Moral Imperative: The Human Rights Implications of Climate Change*, 30 HASTINGS INT’L & COMP. L. REV. 231, 239 (2007).

⁶⁸ *Id.*

⁶⁹ Randall S. Abate, *Climate Change Liability and the Allocation of Risk: Climate Change, The United States, and the Impacts of Arctic Melting: A Case Study In The Need For Enforceable International Environmental Human Rights*, 43A STAN. J. INT’L L. 3, 36 (2007).

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.* at 37.

⁷⁴ *Id.* at 48.

⁷⁵ *Id.*

⁷⁶ Aminzadeh, *supra* note 67, at 239.

⁷⁷ *Id.*

⁷⁸ Jonathan Spicer, *Hearing to Probe Climate Change and Inuit Right*, REUTERS UK, February, Feb. 21, 2007.

⁷⁹ Watt-Cloutier, *supra* note 47, at 6.

⁸⁰ *Id.*

⁸¹ Center for International Environmental Law, *The Inuit Case*, available at

of the human rights of the Inuit people:

1. Right to benefit of Culture

The petition notes that the Inuit right to the benefit of culture is protected by the charter of the OAS, the Universal Declaration of Human Rights, and several other international human rights documents.⁸² Further, the commission and court have long recognized that both action and inaction can violate human rights.⁸³ It further notes that the Inuit right to culture is inseparable from the condition of the lands that the Inuit have traditionally occupied.⁸⁴ The petition then notes that a subsistence-based way of life is central to the Inuit cultural identity, and that the Inuit people are being forced to change their way of life due to the alteration of the characteristics of the ice, snow, and winter in the arctic caused by GCC.⁸⁵ Further, the role of the elder in these communities has become marginalized as the characteristics of the landscape changes. The elders are no longer able to pass on the “knowledge from one generation to the next” that is vital for the survival of the Inuit culture, as the knowledge they possess is no longer sound as the landscape and ecosystem is changing.⁸⁶

2. Right to enjoy the lands they have traditionally occupied

The petition states the IACHR has long recognized that indigenous people have a “fundamental international right to use and enjoy the lands that they have traditionally occupied.”⁸⁷ The IACHR also stated that this right can be violated by both the state’s action or through the actions of a third party with the “acquiescence or tolerance of the state.”⁸⁸ This acquiescence on the part of the United States to human-induced GCC has directly affected the Inuit realization of this right. As the climate changes and sea ice melts, large portions of the Inuit property are “literally melting away.”⁸⁹ This leads to erosion of the coast, thereby threatening Inuit developments and forcing Inuit to move further inland.⁹⁰ Further, with the loss of permafrost, melted water is draining at faster rates, thereby inhibiting the traditional way of storing food in permafrost.⁹¹ As these changes alter the Inuit land, it becomes less valuable to the traditional lifestyle of the Inuit.

3. Right to use and enjoy their personal, intangible and intellectual property

As the habitat in which the Inuit live changes, their equipment, clothing, hides and intangible possessions, such as traditional knowledge, become less valuable.⁹² The Inuit no longer have the knowledge of their surroundings that their people have spent millennia developing, as the terrain is changed.⁹³ This makes the traditional knowledge of the Inuit people less valuable. Further, as the

http://www.ciel.org/Climate/Climate_Inuit.html (last visited Apr. 17, 2010).

⁸² Watt-Cloutier, *supra* note 47, at 74.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at 76.

⁸⁶ *Id.* at 78.

⁸⁷ *Id.* at 79.

⁸⁸ *Id.* at 81.

⁸⁹ *Id.* at 82.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* at 84.

⁹³ *Id.*

climate warms, their equipment and clothing become worth less.⁹⁴

4. **Right to preservation of health**

The petition notes the close interplay of the right to health and environmental protection as recognized by many international bodies, including the World Health Organization and the United Nations.⁹⁵ The continued acceleration of GCC will create health risks as the fish and the game on which the Inuit rely for nourishment become scarce.⁹⁶ As the Inuit are increasingly unable to rely on subsistence farming, hunting, and fishing they are being forced to rely on store-purchased food, increasing “cancer, obesity, diabetes and cardiovascular disease.”⁹⁷ Further, the mental health of the Inuit is being impacted as their lives are forced to change due to GCC.⁹⁸

5. **The right to life, physical integrity, and security**

The petition notes that environmental degradation can directly impact the right to life, and this is a right that is protected by the OAS Charter, and ICCPR.⁹⁹ As ice thins and the food on which the Inuit people rely grows scarce their lives become threatened. As the Arctic climate changes and elders are no longer able to predict the weather or the viability of ice paths, Inuit life becomes riskier.¹⁰⁰ Further, as it becomes more difficult to travel and food becomes scarce, Inuit are at times being forced to go without food.¹⁰¹ This is directly endangering Inuit life.

6. **Right to their own means of subsistence**

The right to one’s own mean of subsistence is not as clearly articulated as other rights; however, an individual has a recognizable right to exist by means of one’s choice. The petition notes that this right is being violated as the Inuit are no longer able to rely on subsistence farming in the way that they traditionally have.¹⁰² As the native animals and the climate change, the Inuit are being forced to move away from their subsistence lifestyle. This change is as a direct result of actions by the United States’, and is violating Inuit right to “self-determination and to their own means of subsistence.”¹⁰³

7. **Right to residence and inviolability of the home**

The right to residence and inviolability of the home are rights recognized in all major international declarations of human rights.¹⁰⁴ The petition notes that GCC directly violates the Inuit realization of this right as they are being forced to relocate outside of their communities as the land

⁹⁴ *Id.*

⁹⁵ *Id.* at 86.

⁹⁶ *Id.* at 87.

⁹⁷ *Id.* at 88 (quoting *Arctic Climate Impact Assessment, Impacts of a Warming Climate: Final Overview Report*, available at <http://www.acia.uaf.edu/pages/scientific.html>).

⁹⁸ *Id.* at 88-89.

⁹⁹ *Id.* at 89-90.

¹⁰⁰ *Id.* at 91.

¹⁰¹ *Id.*

¹⁰² *Id.* at 94.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

becomes no longer viable.¹⁰⁵ This directly violates their right to stay in their homes at their own will.

IV. The Results of the Inuit Petition

In November of 2006, the IACHR rejected this petition in a one page letter, stating, in part, that it did not satisfy the requirements of the IACHR, and that “the information provided does not enable us to determine whether the alleged facts would tend to characterize a violation of rights protected by the American Declaration.”¹⁰⁶ In response to this letter the Inuit and their representatives requested that the Commission hold a hearing to acquire a “better understanding of the relationship between global warming and human rights.”¹⁰⁷ They suggested that the hearing include the following elements: 1.) a non-technical review of global warming; 2.) a description of the impacts on human rights, including presentations from “representatives of vulnerable indigenous communities”; and 3.) a discussion of the relationship between global warming and human rights as defined by “relevant legal documents.”¹⁰⁸ While a hearing would have no binding power on the United States, the group viewed it as an opportunity to publicize the findings of the Arctic report and highlight the Inuit situation.

The IACHR granted the hearing request, and Sheila Watt-Cloutier, Martin Wagner, and Donald Goldberg spoke on behalf of the Inuit people.¹⁰⁹ While the hearing did not force the IACHR or the United States to take any action, it publicized the issue of GCC and the human rights violations of the Inuit people. Further, this petition changed the debate that was previously focused on environmental and economic impacts, to one that included the human rights implications of GCC.¹¹⁰

A. What the IACHR’s refusal means?

The United States is violating the rights of the Inuit people. The petition notes that this violation can be either through action or inaction.¹¹¹ The inaction of the federal government of the United States is directly causing the Arctic to change. This change is shifting the way the Inuit people live their lives, and robbing them of their right to lead their life in the manner they see fit. The Inuit right to their culture, their intellectual property, and their history is one that the international community has recognized in case law and the Universal Declaration of Human Rights. GCC and the actions of the United States are violating the Inuit rights, as GCC destroys the culture and the history of the Inuit people. Only action that recognizes the violation of these rights, and the necessity that this violation be cured, can prevent the Inuit culture from being destroyed.

While some of the rights the petition notes are intangible, others, such as the right to

¹⁰⁵ *Id.* at 95.

¹⁰⁶ Letter from Ariel E. Dulitzky, Assistant Executive Secretary, Inter-American Commission on Human Rights to Paul Crowley, Legal Representative Inuit Petition, Nov. 16, 2006, *available at* <http://graphics8.nytimes.com/packages/pdf/science/16commissionletter.pdf> (last visited Apr. 17, 2010).

¹⁰⁷ Letter from Shelia Watt-Cloutier, Martin Wagner, and Daniel Magraw to Santiago Canton, Executive Secretary Inter-American Commission on Human Rights, Jan. 15, 2007, *available at* http://www.ciel.org/Publications/IACHR_Letter_15Jan07.pdf.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ CIEL, *Human Rights and Environment: Advocacy and Investigations*, *available at* <http://www.ciel.org/Hre/hrecomponent2.html> (last visited Apr. 17, 2010).

¹¹¹ Watt-Cloutier, *supra* note 47, at 74.

property and the right to health, are resulting in tangible loss for the Inuit people. The IACHR letter stated that it was unable to determine if “the facts alleged would tend to characterize a violation of rights protected.”¹¹² However, the tangible loss of property and health are clearly something that the court has seen before, and has standards by which to judge the violations of these protected rights. Additionally, if this is a question to what degree the United States has been responsible for these violations, the IACHR should have stated this problem rather than masking it in its inability to determine the affected and violated human rights.

Shelia Watt-Cloutier, an Inuit activist who was nominated for a Noble Peace Prize, assisted in bringing this suit and stated that even if the commission did hear the case, “a declaration may not be enforceable but it has great moral value . . . to educate and encourage the United States to join the community of nations in a global effort to combat climate change.”¹¹³ While true, her words give little comfort to a people who are being robbed of their traditional habitat, an integral part of their culture. Further, it is essentially saying that Inuit loss will be nothing more than a lesson for the United States. It accepts the limited capability of human rights law, and the United States’ refusal to take meaningful action on GCC. In denying a hearing for this petition the IACHR refused to recognize the importance of this problem, as well as the rights of the Inuit people. While the hearing did bring publicity to the issue and linked GCC and human rights, immediate action is necessary to save Inuit land and culture.

IV. What can be done?

One frustrating part of the United States’ position on GCC is that there appears to be no recourse for those affected by the inaction of the United States. One conclusion is that the OAS is not yet comfortable with the link between GCC and human rights violations. While most developed nations have met or are on target to meet their pledges under the Kyoto protocol, the United States is still reluctant to ratify the treaty, or take any concrete action on GCC. Due to this sad fact, it is imperative that something, or someone, further encourage the United States to not just recognize the problem of GCC, but to also take action.

Since this petition was filed the link between GCC and human rights has grown significantly. On July 17, 2007 the President of the Maldives, Maumoon Abdul Gayoom, stated that GCC is “a profoundly human issue with human causes and human consequences.”¹¹⁴ President Gayoom knows these consequences all too well as his nation is sinking due to sea-level rise from GCC. On March 28, 2008, the United Nations Human Rights Council adopted a resolution that explicitly “recognized that climate change ‘has implications for the full enjoyment of human rights’” known as Resolution 7/23.¹¹⁵ Many nations take issue with the preamble of Resolution 7/23 which states, in part, “climate change has ‘implications for the full enjoyment of human rights.’”¹¹⁶ The issues arise due to the implications of this statement to nations with unchecked carbon production.¹¹⁷

¹¹² Dulitzky, *supra* note 106.

¹¹³ Osofsky, *supra* note 29, at 687.

¹¹⁴ Marc Limon, *Human Rights and Climate Change: Constructing A Case for Political Action*, 33 HARV. ENVTL. L. REV. 439, 439 (2009) (exploring the issue of GCC and The Male Declaration).

¹¹⁵ *Id.* See also The Resolution, which secured eighty co-sponsors, was adopted by consensus. U.N. Human Rights Council [UNHRC] Res. 7/23, U.N. Doc. A/HRC/7/78 (Mar. 28, 2008).

¹¹⁶ *Id.* See also Limon, *supra* note 114, at 445.

¹¹⁷ *Id.*

In response to this report, the United States authored the *Observations by the United States of America on the relationship between climate change and human rights*.¹¹⁸ This document begins with the recognition by the United States that GCC is a serious challenge, and that the United States is committed to working with the U.N. to solve this problem.¹¹⁹ It goes on to state that the values represented in the Universal Declaration on Human Rights are consistent with the “core values upon which the United States was founded,” and that the United States currently works to advance the cause of human rights around the world.¹²⁰ However, the United States points out on the same page of this report that while a safe and sustainable environment is an essential and shared goal, it does not regard the “right to a safe environment” as one that “exists under international law.”¹²¹ It goes on to state that the United States does not believe that a human rights approach to GCC will be effective.¹²² The report focuses on four reasons why a human rights approach to GCC is impossible: 1.) the highly complex nature of the issue;¹²³ 2.) the global nature of the phenomena;¹²⁴ 3.) the long term nature of the problem;¹²⁵ 4.) the broad array of human activity affecting the problem, including those that help human rights.¹²⁶ Further, the report emphasizes that if these rights are recognized, justice will likely be distributed in an “uneven and arbitrary manner.”¹²⁷ It is hard not to interpret this last statement as an admission by the United States that it recognizes that many nations and groups hold it responsible for many violations of human rights with regard to GCC.

This report further states that the United States believes that while GCC may negatively affect the enjoyment of one’s human rights, it may also affect these rights in a positive way. For example, it can “lead to localized larger crop yields.”¹²⁸ This statement can hardly bring any “enjoyment” or comfort to the Inuit: that their traditional and sacred ice-covered lands may soon be replaced by grassy fields, where they can harvest crops, such as corn. This statement highlights the United States’ misunderstanding of the ramifications GCC. This refusal to see the true interconnected implications of GCC on the ecosystem and rights of the people of the world is upsetting. The United States is, as of yet, unwilling and unable to grasp its role in the violations of the Inuit people, and in a global sense, violations of human rights around the world. It refuses to accept that its actions, with regard to carbon output, not only affect the enjoyment of rights within its borders, but those around the world. This statement also highlights the need for something to shift before the United States takes its role in alleviating GCC seriously.

As the science behind GCC becomes more concrete, so has the projected impact on individuals. We must protect individuals’ rights through international law before the truly devastating impacts of GCC run their course. We must continue to put faces and names of people that are being affected by GCC in front of the people of the world via the media, as this will make it

¹¹⁸ Submission of U.S. to OHCHR Report, *Observations by the United States of America on the Relationship Between Climate Change and Human Rights*, (2008), available at

<http://www2.ohchr.org/English/issues/climatechange/docs/submissions/USA.pdf> (last visited Apr. 17, 2010).

¹¹⁹ *Id.* at 1.

¹²⁰ *Id.*

¹²¹ *Id.* (internal quotations omitted).

¹²² *Id.*

¹²³ *Id.* at 4.

¹²⁴ *Id.* at 5.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.* at 7.

¹²⁸ *Id.* at 4.

impossible for nations to turn away from those in need.¹²⁹ Despite the United States' statement of skepticism that GCC results in human rights violations, this view is being adopted by the United Nations and many of its member states.¹³⁰ This is largely because the current formulation of dealing with GCC and human rights is not working,¹³¹ as was seen through the Inuit petition. While the rights that are affected by GCC are vast and are often encompassed in many other human rights, such as those of the Inuit, it is necessary to recognize the "explicit right to a safe and healthy environment."¹³² While this has been suggested many times, including at the conference in Rio, it has yet to be adopted by the United Nations and its member states.¹³³ In the response report entitled the *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights*, released in January of 2009, the United Nations again stated the right to a healthy environment was encompassed in other, previously announced and accepted rights. It again did not enumerate the right to a healthy environment as an inalienable right, a disappointing and frightening step backwards.¹³⁴ However, this document does create hope as it specifically declares that part of this debate must be based in human rights law, as this law "provides more effective protection with regard to measures taken by States to address climate change and their impact on human rights."¹³⁵ This is heartening to those whose rights are violated by GCC not only because it recognizes the link between GCC and human rights, but also because it outlines a strategy by which to redress these violations. It does this by stating that the European Court of Human Rights may be a place to redress foreseeable GCC violations of human rights, such as not providing safe housing to those affected by floods.¹³⁶

While this document goes a long way toward realizing the human rights implications of GCC, it still does not recognize the right to a healthy and safe environment. Without the recognition of this right we will continue to treat only the "symptoms" of GCC, such as flooding, severely destructive storms, and the loss of land. The underlying problem – the changing of the environment – is what must be addressed in order to help people before they are harmed. By intervening only after the "symptom" occurs, we are helping at the point where the damage is already done, where people, such as the Inuit, are being forced to abandon their homes and culture. This is shown in the Inuit petition. While the petition goes to great lengths to enumerate that inaction is resulting in the violation the rights of the Inuit, it does not specifically find that the destruction of the Arctic climate is itself a violation. This right seems implicit given that science demonstrates that GCC is a direct threat to a healthy environment, and a healthy environment is itself an integral part of the realization of human rights and implicates many other human rights. It seems foolish that nations that are serious about protecting human rights have not acknowledged the base right: the right to live in a healthy environment.

Without the recognition of this right the nations will continue to virtually destroy the Inuit

¹²⁹ Limon, *supra* note 114, at 451.

¹³⁰ *Id.* at 448.

¹³¹ *Id.*

¹³² *Id.* at 471.

¹³³ Dinah Shelton, *Human Rights and the Environment: What Specific Environmental Rights Have Been Recognized?*, 35 DENV. J. INT'L L. & POL'Y 129, 133 (2006).

¹³⁴ See Human Rights Council of the United Nations, Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, *available at* <http://www2.ohchr.org/english/issues/climatechange/study.htm> (last visited Apr. 17, 2010).

¹³⁵ *Id.* at 24.

¹³⁶ *Id.*

culture, and many other cultures. It is clear that by approaching this right through other rights the underlying problem will not be resolved. The right to a healthy environment must be established, for without this right it is impossible to protect people from the damage caused by GCC before the damage occurs. The right to a healthy environment must be the first line of defense for the indigenous people of the world, like the Inuit. If it is not, we will only intervene when it is too late to save their culture. It is imperative that the United Nations take the right to a safe and healthy environment seriously, and hold other nations and member states to this obligation. Without this action the Inuit culture will have no chance of survival, as the point of intervention will occur after their homes and culture are lost. It is our moral obligation to protect these people who have contributed little or nothing to GCC through the recognition of the right to a safe and healthy environment. If this right is not realized it will be too late for the Inuit people.

Conclusion

Inaction with regard to GCC has not only drastic environmental implications, but also devastating human rights implications. As the international community grapples with this issue, nations that are unwilling to cooperate will continue to make themselves pariahs with inaction in the face of great advancement in human rights. If nations of the world do not act responsibly with regard to GCC, the international community must encourage them to through the imposition of human rights violations on behalf of those experiencing injury. Only time will tell if reluctant nations will take their role in solving GCC, but time is one thing the Inuit people do not have.