

Human Rights and Climate Change

Briefing Paper drafted for the purpose of informing the Climate Justice Dialogue on 7 February 2015, co-hosted by the OHCHR and the Mary Robison Foundation in Geneva

Embedding human rights informed climate action into the Paris climate agreement and beyond

1. International policy processes informing decisions that benefit people

There is virtually no aspect of our work that does not have a human rights dimension. Whether we are talking about peace and security, development, humanitarian action, the struggle against terrorism, climate change, none of these challenges can be addressed in isolation from human rights.

Ban Ki-moon, Secretary-General of the United Nations, 2008

The United Nations Framework Convention on Climate Change (UNFCCC) and United Nations Human Rights Council (HRC) are separate and independent processes with their own mandates and areas of expertise. They should not and cannot substitute for each other or encroach on each other's mandates. They can however be supportive of each other, share expertise and good practices and to respect obligations undertaken in other processes in the implementation of their work.

The driver for such integrated approaches is effectiveness. At the household or community level people do not differentiate between their right to access information or own land from their ability to adapt their agriculture to increasingly frequent and severe droughts. In terms of designing effective actions on the ground, engaging people in the communities involved is as important as good technical information and access to finance in implementing an effective climate action. Putting people and their rights at the centre of climate decision making will maximise the potential of climate actions.

Rights-based approaches focus on all people achieving at least the minimum conditions for living with dignity, through the realisation of their human rights. For example, women in Maradi, Niger, traditionally lacked access to their rights making them particularly vulnerable to food crises caused by recurrent droughts. Rights-based approaches have been used at the community level to improve women's access to and control over land, as well as access to information and credit. This is enabling women to adapt their agricultural practices, improve household nutrition and generate income. Helping women and other vulnerable groups to claim their rights is essential to climate justice.

Later this year States will come together in Paris to adopt a new climate agreement. This provides an important opportunity to enshrine human rights standards and principles in climate policy. Perhaps more than any other problem humanity has faced, climate change confronts us with the reality of our interdependence. No country alone can protect their citizens from the impacts of dangerous climate change; climate change observes no boundaries. As climate actions are scaled up between now and 2020 and with the entry into force of the new agreement from 2020 onwards, there is a real opportunity to respect human rights into climate action and in so doing generate broad public support for climate policies that deliver benefits to people's lives and improve the overall outcomes. To do so effectively climate policy makers will need the support of their human rights counterparts.

This event aims to bring the human rights and climate change communities together to start to discuss opportunities to support each other and to share experiences and good practices.

2. Establishing the links between human rights and climate change

“Global climate change is a defining challenge of our time. It poses an effective obstacle to the continued progress of human rights, which translates directly into a worsening of the existing inequities that afflict a world already riven with vast inequality, poverty and conflict.”

International Bar Association, 2014

The links between human rights and climate change are well established. The Human Rights Council (HRC) has adopted resolutions¹ which recognise the threat that climate change poses to people around the world and their enjoyment of human rights. The Office of the High Commissioner for Human Rights published a study in 2009 on human rights and climate change that found that climate change will potentially have implications for the full range of human rights. In 2014 Special Procedures mandate holders (independent experts) of the HRC issued a [joint letter to States](#) and a [joint statement](#) on International Human Rights Day 2014 highlighting the role that human rights can play in climate change governance. They state that ‘understanding and addressing the human consequences of climate change are fundamental and therefore, climate change cannot be effectively addressed without protecting human rights, including the principle of climate justice.’

The most recent resolution of the HRC on human rights and climate change adopted in June 2014 emphasises the ‘urgent importance of continuing to address the adverse consequences of climate change for all, particularly in developing countries’ in particular for people ‘most vulnerable to climate change, especially those in a situation of extreme poverty, and deteriorating livelihood conditions, with regard to the human rights obligations of States;’ and ‘Stresses the importance of fostering dialogue and cooperation between relevant international organizations and stakeholders to develop the analysis of the linkages between human rights and climate change;’. It also mandates a panel discussion on human rights and climate change which will take place on 6 March 2015.

The UN Independent Expert on Human Rights and the Environment has also undertaken work of relevance to climate change. In his reports to the United Nations Framework Convention on Climate Change, the Independent Expert urges States to take their human rights obligations into account in

¹ See Annex 1 for a summary of the relevant resolutions and decisions

the development and implementation of their environmental policies. He also finds that human rights law requires States to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights. This includes environmental harms from climate change and in this regard the Independent expert finds “States have an obligation of international cooperation that is highly relevant to global harm such as climate change.”²

Meanwhile the Parties to the UNFCCC are also taking action to protect human rights. Given the risks posed to human rights by climate change, all actions to reduce greenhouse gases reduce the scale of the risk posed to people’s rights. Action on adaptation meanwhile, protects rights by increasing resilience and building adaptive capacity. Access to information on climate change and participation in climate decision making informs climate actions with broad-based support and sustainable outcomes.

The potential for human rights to inform climate action was recognised at COP16 in Cancun in 2010, informed by the resolutions adopted by the HRC in 2008 and 2009. As a result the Cancun Agreements emphasise that ‘Parties should in all climate change related action, fully respect human rights’ (1/CP16).

3. Rights informing climate action – actions taken by countries

“Applying human rights in the context of climate change brings many benefits. It moves the rights of affected individuals and communities centre stage in all response strategies.”³

United Nations Special Procedures Mandate Holders, December 2014

Research commissioned by the Mary Robinson Foundation in 2014 shows that some countries are already acting in accordance with the commitment made in the Cancun Agreements. 49 countries included explicit references to human rights in their National Communications submitted since 2010 or in National Adaptation Programmes of Action (NAPAs).

This research shows that countries are already experiencing the negative impacts of climate change on people’s lives and that they are making the connection between human rights and climate action.

The research also looked at country reports to the Universal Periodic Review of the HRC and found that 45 countries made explicit references to the human rights impact of climate change. Developing countries with acute vulnerability to climate impacts, the Small Island Developing States (SIDS) and the Least Developed Countries (LDCs), highlighted these implications most often. Most recently in January 2015 in the presentation of the island of Kiribati to the Universal Periodic Review, Minister Tangariki Reete stated that:

“We cannot really talk and report on human rights without addressing these challenges from climate change to low lying nations like mine, how it is affecting the very basic human right for our people as

² <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14348&LangID=E>

³ Statement of the United Nations Special Procedures Mandate Holders on the occasion of the Human Rights Day Geneva, 10 December 2014 - See more at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15393&LangID=E#sthash.KqFJl95G.dpuf>

a distinct culture to survive, the right and access to clean drinking water, to food and the right to have islands that we can call our homes.”

She also pointed to actions her country is taking to integrate human rights into climate action through the Kiribati Joint Implementation Plan on Climate Change and Disaster Risk Management. The plan respects and promotes human rights by ensuring that all I-Kiribati have increased access to food security; safe water security and land security within the current and future threats of climate change and disasters such as sea level rise and droughts.

Examples such as this one from Kiribati and others the Foundation will share at the event on 7^h February, show that countries are already recognising the benefits of integrating human rights into climate action, to maximise positive outcomes for people and the planet.

It is also important to note that when climate policies are designed without due attention to human rights obligations they risk having negative outcomes for people and being less effective in delivering their objective. Climate actions that lead to the displacement of people and communities due to land-intensive activities such as hydroelectric reservoir construction, forest protection, and plantation development for bioenergy or carbon sinks, for example, pose potential risks to human rights including the right to land tenure, access to vital resources such as water, and the livelihoods of persons living in or dependent on the affected land, as well as the right to cultural autonomy.

Annex 1: Overview of key resolutions, decisions and publications on human rights and climate change

Over the last decade the Human Rights Council and the United Nations Framework Convention on Climate Change have explicitly addressed the links between human rights and climate change. In 2008 the United Nations Human Rights Council adopted Resolution 7/23 on Human Rights and Climate Change which, for the first time in a UN resolution, stated explicitly that climate change “poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights”. A subsequent study published by the Office of the High Commissioner for Human Rights (OHCHR) in January 2009 asserts that global warming “will potentially have implications for the full range of human rights”.

In response to the OHCHR Report the Human Rights Council adopted a second resolution on Human Rights and Climate Change in March 2009. Resolution 10/4 notes that “climate change-related effects have a range of implications, both direct and indirect, for the effective enjoyment of human rights”, and that the effects of climate change will fall hardest on the rights of those people who are already in vulnerable situations “owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability.”

Resolution 10/4 informed the United Nations Framework Convention on Climate Change (UNFCCC) negotiations at COP16 in Cancun. The Cancun Agreements note Resolution 10/4 of the United Nations Human Rights Council on Human Rights and Climate Change. Decision 1/CP.16 includes a reference to existing human rights obligations in the overarching section on a shared vision for long-term cooperative action; it “emphasises that Parties should, in all climate change-related actions, fully respect human rights.”

In September 2011, Human Rights Council Resolution 18/22 affirmed that human rights obligations, standards, and principles have the potential to inform and strengthen international and national policy making in the area of climate change, promoting policy coherence, legitimacy, and sustainable outcomes.

More recently, in June 2014, the Human Rights Council adopted, by consensus, Resolution 26/27 which recognises the need to fully respect human rights when taking climate action. Through this resolution, the Human Rights Council have scheduled a full day discussion to be held during its twenty eighth session with two panels on themes relating to human rights and climate change. The first panel will be on the role of enhanced international dialogue and cooperation in addressing the adverse impacts of climate change on the effective enjoyment of human rights. The second panel will discuss how climate change has had an adverse impact on the right to food, and policies, lessons learned and good practices. The discussions will engage human rights experts as well as academics, civil society and other relevant stakeholders in dialogue about international cooperation in the face of the climate crisis, the impact of climate change on the enjoyment of human rights and will have a particular focus on those in vulnerable situations.

At the June 2014 session of the Ad-Hoc Working Group on the Durban Platform for Enhanced Action (ADP), nine statements and submissions by Parties and groups made reference to the right to development.

Then, on 17 October 2014, in advance of the final ADP intersessional before COP 20 in Lima, 28 Special Procedures Mandate Holders, a group of independent experts of the Human Rights Council, issued an open letter to the State Parties to the ADP in which they described climate change as “one of the greatest human rights challenges of our time”. They urged State Parties to include language in the 2015 climate agreement that provides that: “Parties shall, in all climate related actions, respect, protect, promote and fulfil human rights for all.”

At the October session of the ADP, Uganda called for the respect, promotion and full enjoyment of human rights in the new climate agreement. The latest draft of the ADP co-chairs non-paper on elements of a draft negotiating text for a new agreement, published on 11 November 2014, includes human rights in the proposed elements for preambular language.

Beyond the climate negotiations, 2014 has seen increased awareness of the linkages between climate change and human rights in other fora. The International Bar Association, the world’s leading organisation of international legal practitioners, bar associations and law societies released a flagship report titled *Achieving Justice and Human Rights in an Era of Climate Disruption*. In academic circles, there is a growing evidence base supporting human rights and climate change linkages, as evidenced by special issues of the *Journal of Human Rights and the Environment* and the *Health and Human Rights Journal* on climate justice, and the Climate Justice Resource Hub hosted by Glasgow Caledonian University.