



**Mary Robinson
Foundation**
Climate Justice

Incorporating Human Rights into Climate Action

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INTRODUCTION

The integration of human rights considerations into climate policies is central to achieving climate action that is good for people as well as the planet. Climate Justice links human rights and development to achieve a people centred approach to climate action - safeguarding the rights of the most vulnerable and sharing the burdens and benefits of climate change and its resolution equitably and fairly. Integrating human rights into climate action enables governments to realise their obligations under the United Nations Framework Convention on Climate Change (UNFCCC) and human rights law. Actions taken to adapt to the impacts of climate change and to reduce the emissions that cause global warming ultimately protect people's rights as they strive to avoid dangerous climate change. However, climate actions designed and implemented without respect for human rights risk undermining people's rights.

ABOUT THIS RESEARCH

The research summarised in this booklet is the product of an extensive survey commissioned by the Foundation to assess the extent to which countries are reporting on the links they are making between human rights and climate change.

The research considered all national communications submitted to the UNFCCC between January 2010 and December 2015. In total 153 developed and developing country governments submitted a national communication in this time. The research also considered all National Adaptation Programmes of Action (NAPAs) submitted by Least Developed Countries (LDCs) – this amounted to 50 NAPAs.

To further understand the landscape of human rights and climate change, the research also considered reports to the Universal Periodic Review (UPR) under the Human Rights Council (HRC). The most recent report submitted by each country to the UPR was reviewed.

Of the 392 documents that fit the criteria for this study, 7 national documents were excluded from review due to technical constraints.¹

1. The documents submitted in a format preventing the search function are: the NAPA submitted by Nepal and the national communications submitted by Luxembourg, Sri Lanka and Zimbabwe. Three countries submitted a national communication in the Russian language, for which translation was not available: Belarus, Russia and Ukraine.

ACKNOWLEDGING THE LINKS BETWEEN CLIMATE CHANGE AND HUMAN RIGHTS IN INTERNATIONAL PROCESSES

Incorporating existing human rights obligations and commitments into the design of climate action has the potential to inform and strengthen national and international policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.

Presently, however, guidance for national reporting to either the UNFCCC or the HRC offers no assistance on how human rights can be systematically considered in the design of climate action. Neither is there any requirement on States to report on their integration of human rights into climate policy under the UNFCCC or HRC. As a result, the majority of states currently make no explicit reference to human rights in their reports to the UNFCCC or the HRC (see figure 1).

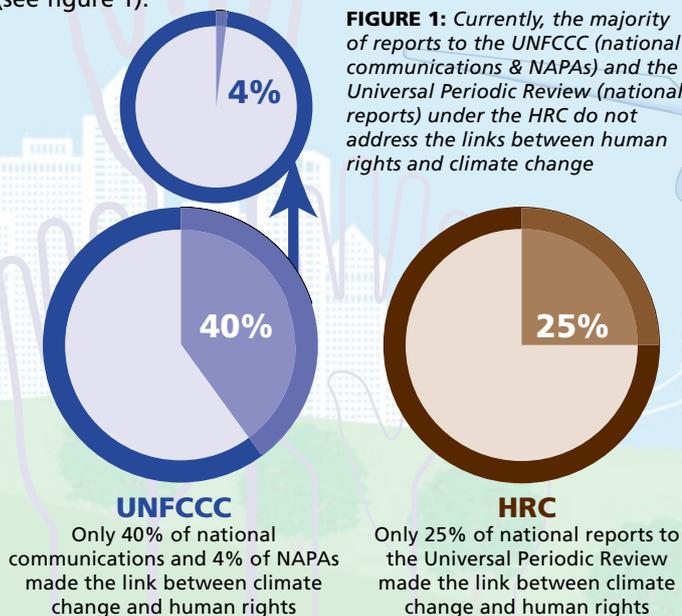


FIGURE 1: Currently, the majority of reports to the UNFCCC (national communications & NAPAs) and the Universal Periodic Review (national reports) under the HRC do not address the links between human rights and climate change

In recent years the relationship between climate actions and human rights has been documented at the intergovernmental level.

Under the UNFCCC

- At COP16 in Cancun in 2010, Parties to the UNFCCC emphasized the importance of respecting human rights in all climate related actions (Decision 1/ CP.16, paragraph 8). This decision is recognition that climate change undermines human rights and that responses to climate change can in themselves be harmful and impede the realization of human rights
- At COP21 in Paris in 2015, 195 countries concluded the historic Paris Agreement. This Agreement built on the growing understanding of climate change as a social, as well as environmental and economic issue. In the Agreement, countries acknowledge the importance of respecting and promoting their respective obligations on human rights when taking action to address climate change.

Under the HRC

- The Human Rights Council (HRC) has adopted five resolutions and held three panel discussions on the threat that climate change poses to people around the world and their enjoyment of human rights²
- In 2015, the HRC established the role of Special Rapporteur on human rights and the environment. In his 2016 report to the HRC, on human rights obligations relating to climate change, Special Rapporteur John Knox concludes that complying with human rights obligations not only helps to protect the rights of everyone affected by climate change but also promotes policy coherence, legitimacy and sustainable outcomes³.

2. HRC resolutions and other HRC activities related to human rights and climate change can be found here: <http://bit.ly/1T38ChH>

3. Knox, John (2016) *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*. United Nations General Assembly

GOOD CLIMATE ACTION CAN HELP PEOPLE REALISE THEIR RIGHTS

The impacts of climate change on human rights is unequivocal. The resolution of the HRC on human rights and climate change adopted in June 2015 emphasised that the 'adverse effects of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights' and expressed concern that 'the adverse effects of climate change are felt most acutely by those segments of the population that are already in vulnerable situations'⁴.

In most cases, the impetus for governments to undertake climate action is to ensure the well-being of their people in the face of climate change. In addition, actions to mitigate climate change, or adapt to its impacts, contribute to sustainable development. These links between climate action, sustainable development and human well-being are reflected in national reports to the UNFCCC. In 45% of national communications (70 of 153) submitted between 2010 and 2015 reference actions taken to reduce the impact of climate change on human health, on food security and on access to drinking water. However, in the majority of these cases (66 of the 70 national communications), the protection of human rights was not an explicit motivation for the climate action and reports included no reference to human rights, like the right to health, the right to adequate food or the right to water and sanitation.

In total, 88% of national communications contained at least one reference to domestic policies and measures that would protect at least one human right. This indicates that the majority of countries are undertaking climate action that protects human rights without being motivated directly by respect for human rights.

Case studies documented by the Mary Robinson Foundation – Climate Justice show that there are many potential synergies between climate action and the

improvement of people's lives, including the enjoyment of human rights⁵. If a human rights based approach is adopted from the outset, climate action can help improve lives and realise rights. However, in order to adopt a human rights based approach, it is necessary to understand how climate change, and climate action, can impact on human rights.

Human rights and climate change are linked in three key ways:

- I. Climate change has implications for the full range of human rights, particularly for people living in situations of poverty, marginalisation and vulnerability
- II. A failure to integrate human rights into climate action can undermine people's rights
- III. The integration of human rights into climate change policies can improve effectiveness and result in benefits for people and the planet.

4. HRC (2005) Human Rights and Climate Change A/HRC/29/L.21 Available at: <http://bit.ly/1T4E9Wy>

5. Mary Robinson Foundation – Climate Justice (2015) Rights for Action. Available at: <http://bit.ly/1Zr2a8>

Reports making the link between climate change and human rights can be similarly divided into three categories - those highlighting the implications of climate change on human rights; those highlighting steps taken to ensure climate action does not undermine people's rights; and those highlighting efforts to integrate human rights into climate change policies in order to improve effectiveness and resulting in benefits for people and the planet.

The following tables give examples of reporting by States to the UNFCCC and the UPR that fall into these categories.

I. REPORTS HIGHLIGHTING THE IMPLICATIONS OF CLIMATE CHANGE ON HUMAN RIGHTS SUBMITTED TO THE UNFCCC AND UPR

Country	Report	Forum	Year	Extract from report
Peru	National Communication	UNFCCC	2010	"Preliminary efforts have been engaged to understand the impact of climate change on development policies in agriculture, energy, fishing and aquiculture matters, in human rights and on the millennium development goals." p.37
Turkey	National Communication	UNFCCC	2013	"Environment and Climate have an impact on all aspects of our lives including urbanization, economy and development, technology, food and agriculture, water resources, human rights , health and tourism." p.3
Tanzania	National report to UPR	HRC	2011	"75. Climate change , environmental degradation and problems such as desertification, deforestation, over fishing, inefficient use of water and industrial emissions cause climate change and depletion of the ozone layer. These have had a negative impact on the environment, food security and agriculture." p.15

II. REPORTS HIGHLIGHTING STEPS TAKEN TO ENSURE CLIMATE ACTION DOES NOT UNDERMINE PEOPLE'S RIGHTS

Country	Report	Forum	Year	Extract from report
Ecuador	National Communication	UNFCCC	2012	"Energy sovereignty will not be achieved at the expense of food sovereignty, or affect the right to water ." p.125

III. REPORTS HIGHLIGHTING EFFORTS TO INTEGRATE HUMAN RIGHTS INTO CLIMATE CHANGE POLICIES IN ORDER TO IMPROVE EFFECTIVENESS AND RESULT IN BENEFITS FOR PEOPLE AND THE PLANET

Country	Report	Forum	Year	Extract from report
Kenya	National Communication	UNFCCC	2015	"The strategy provides a framework for the Government to reach all segments of the Kenyan population with simplified and timely information on climate change. It will empower Kenyan citizens to enjoy their right to a healthy environment and to play a role in sustaining the environment for the benefit of current and future generations." p.217
Philippines	National Communication	UNFCCC	2014	"The National Climate Change Action Plan (NCCAP) is a long-term plan that outlines the country's agenda for adaptation and mitigation from 2011-2028. The main goals of the NCCAP are to build the adaptive capacities of women and men in their communities, increase the resilience of vulnerable sectors and natural ecosystems to climate change, and optimize mitigation opportunities towards a gender-responsive and rights-based sustainable development ." p.58
Iceland	National report to UPR	HRC	2011	"Gender and climate change is another focus area. Iceland will continue to emphasise the importance of the gender perspective of climate change, especially the principle of equal participation, and that women are important stakeholders." p.20

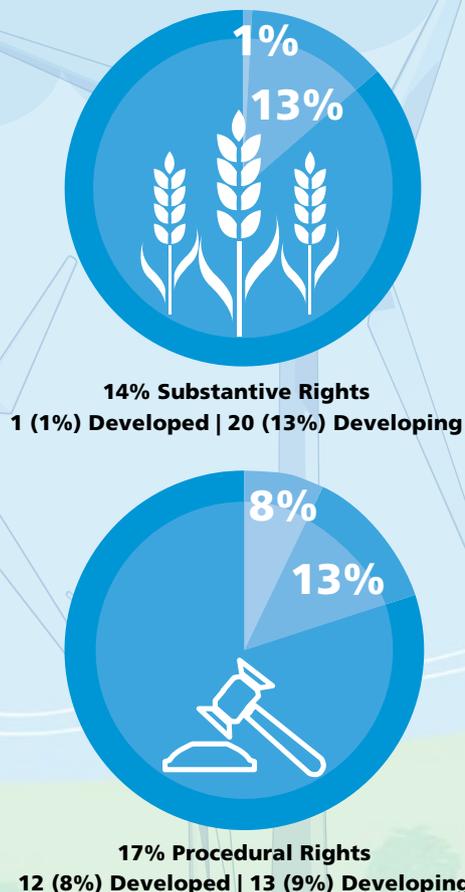
HUMAN RIGHTS IN REPORTING TO THE UNFCCC

In National Communications to the UNFCCC, procedural rights were explicitly referenced more frequently than substantive rights.

The vast majority, over 95%, of the references to substantive rights were in reports from developing countries. This is most likely attributable to the fact that developing countries are already feeling the impacts of climate change on rights such as water, food, health and shelter due to extreme events, rising sea levels and changing seasons. On the other hand developed countries have a higher capacity to adapt, meaning that their rights may have been less affected to date by climate change.

Another finding from the research illustrates that States party to the Aarhus Convention on procedural rights in environmental decision making were four times more likely to refer to the right to access to information. This implies that the Aarhus Convention, a legally binding instrument, is successful at promoting the inclusion of human rights in policy making.

FIGURE 2: *Explicit references to human rights in National Communications and NAPAs under the UNFCCC. There was a significant difference between developed and developing countries when reporting on substantive rights, with almost no developed countries making the link between climate change and substantive rights.*



SUBSTANTIVE AND PROCEDURAL RIGHTS: TWO SIDES OF THE SAME COIN

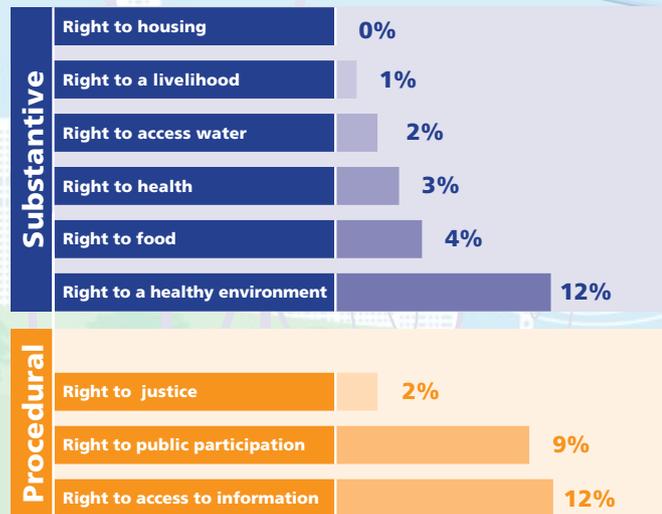
Human Rights can be conceptualised as being either substantive or procedural. Substantive rights (like the right to adequate food, the right to water and sanitation or the right to life) can be seen as the basic natural requirements for a person to live a life underpinned by dignity. Procedural rights (like the right to access to information, the right to access to justice or the right to public participation) relate to the manner in which substantive rights are protected.

In reports (National Communications and NAPAs) to the UNFCCC 60 out of 166 countries made explicit references to the links between climate change and human rights.

Reporting does not reflect the negative impact climate change is having on human rights

In his 2016 report on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, UN Special Rapporteur John Knox wrote “climate change is already impairing the ability of some communities to feed themselves, and the number affected will grow as temperatures rise”⁶. The Intergovernmental Panel on Climate Change Fifth Assessment Report states that all aspects of food security are potentially affected by climate change, and climate change is already negatively affecting food production⁷. And yet, only 4% of countries reporting to the UNFCCC have made the link between climate change and the right to food (Figure 3).

FIGURE 3: The breakdown of reporting on the links between human rights and climate change by individual rights highlights that more than half of the substantive references relate to the right to a healthy environment. The majority of references under procedural rights relate to access to information.



6. Knox, John (2016) *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*. United Nations General Assembly

7. Intergovernmental Panel on Climate Change (2015) *Climate Change 2014: Impacts, Adaptation, and Vulnerability*. Cambridge University Press

REPORTING ON HUMAN RIGHTS AND CLIMATE CHANGE TO THE HUMAN RIGHTS COUNCIL

In their national reports to the UPR under the HRC, 47 countries (25%) made explicit references to the human rights impact of climate change.



In their national reports to the UPR under the HRC, developing countries highlighted the impacts of climate change on human rights more frequently than developed countries. Figure 4 illustrates that 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.

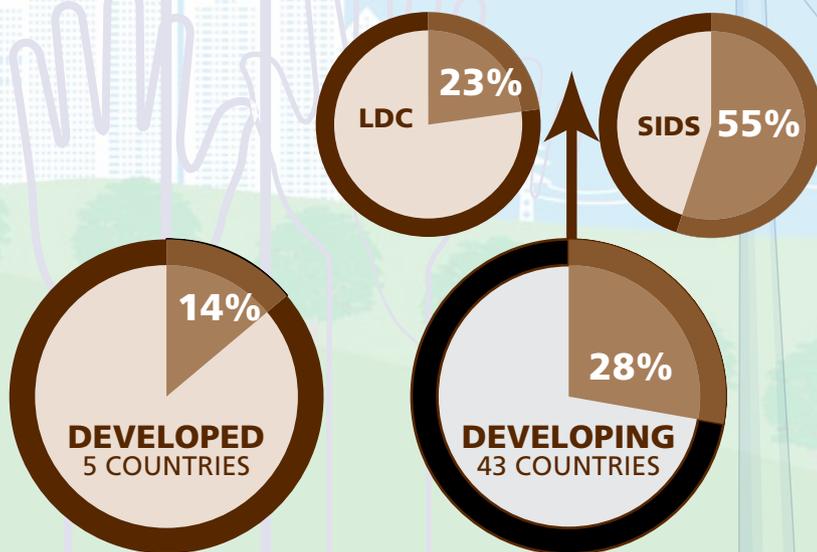


FIGURE 4: Developing countries make the link between human rights and climate change twice as frequently as developed countries in reports to the UPR. Over half of all SIDS and more than a third of LDCs have highlighted climate change in their UPR national reports.

COHERENCE IN REPORTING

For an ever increasing proportion of the world's most vulnerable people, climate impacts are inhibiting the realisation of basic human rights. However, international processes tend to deal with human rights and climate change as separate issues. This reality is reflected in the small number of countries demonstrating coherence in their reporting to the UNFCCC and the HRC .

A more cohesive approach would better reflect realities on the ground, where rights, development and climate change are interlinked. This would also enable the exchange of knowledge and expertise between the international processes, and ultimately strengthen responses to climate change.

Working to increase coherence - The Geneva Pledge on Human Rights and Climate Action

In February 2015 Costa Rica announced the launch of the Geneva Pledge on Human Rights and Climate Action. The idea for the Geneva Pledge arose during the Climate Justice Dialogue that was hosted by the Office of the UN High Commissioner for Human Rights and the Mary Robinson Foundation – Climate Justice on the eve of climate negotiations taking place in Geneva. The pledge is a voluntary initiative undertaken by countries to facilitate the sharing of best practice and knowledge between human rights and climate experts at a national level. Initially signed by 18 countries, as of March 2016 the pledge had over 30 signatories⁸. The Geneva Pledge provides signatories with the opportunity to promote coherence between national climate change and human rights policies.

Only 14 countries (16%) made the link between human rights and climate change in reports to both the UNFCCC and the HRC.



8. More information on the Geneva Pledge for Human Rights in Climate Action can be found here: <http://bit.ly/1J7UXjN>

RECOMMENDATIONS FOR ENHANCING REPORTING ON THE LINKAGES BETWEEN HUMAN RIGHTS AND CLIMATE CHANGE

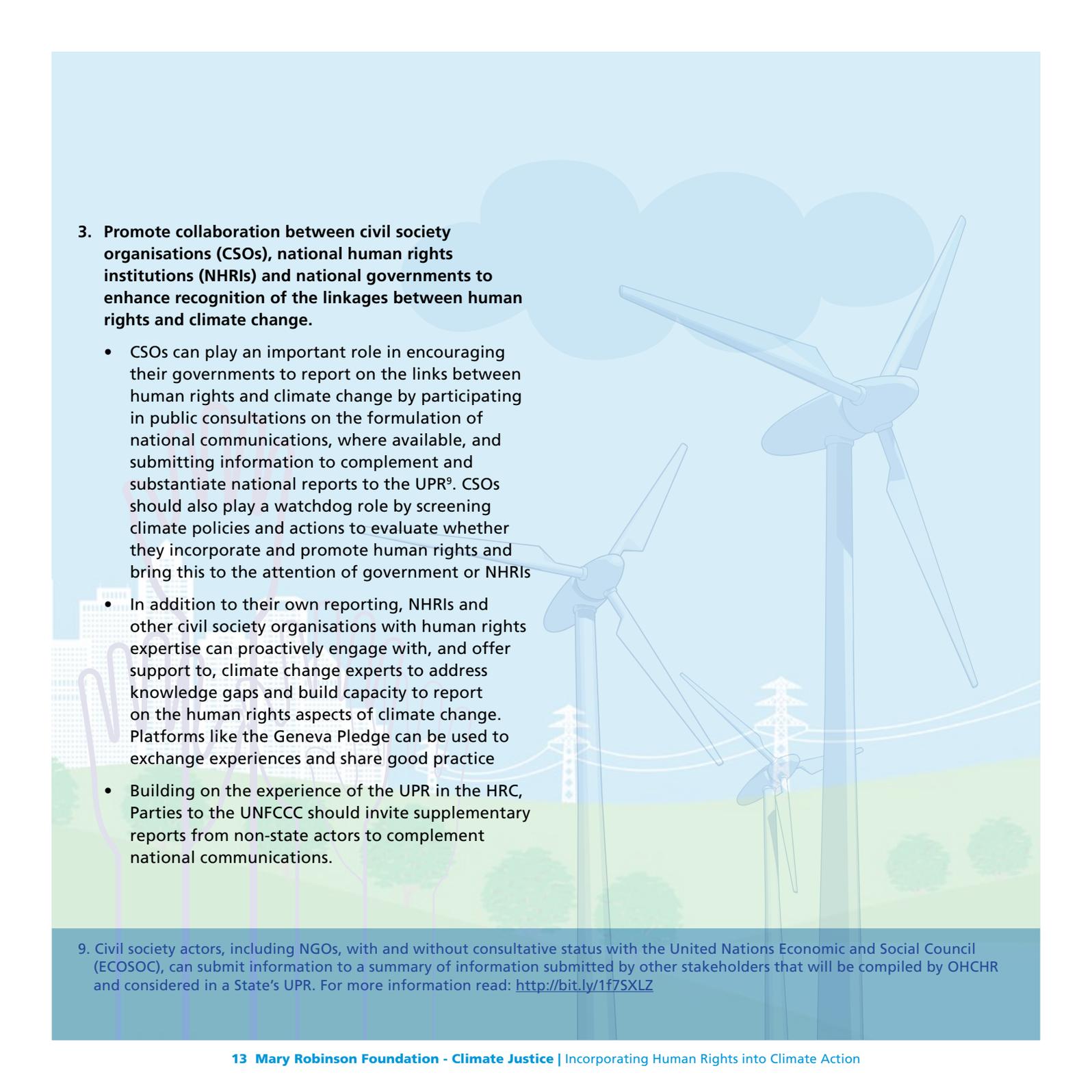
Reporting on national progress in linking climate change and human rights can help countries to enhance knowledge, exchange expertise and build capacity, at the international level. In addition, documenting national experiences in linking human rights and climate change can help to promote greater collaboration and coordination between climate change and human rights actors at the national level (as envisaged by the Geneva Pledge). There are some basic steps states and civil society organisations can take to enhance reporting on climate change and human rights:

1. Ensure that guidelines for monitoring and reporting frameworks under the Paris Agreement reflect commitments to respect human rights in climate action

- As Parties to the UNFCCC design the institutional arrangements for implementation of the Paris Agreement, guidelines for monitoring and reporting should include a requirement to highlight the steps being taken to respect human rights in climate action.

2. Encourage collaboration between human rights and climate change policy makers at the national level to prepare national reports.

- At the national level, as governments work towards ensuring opportunities for shared learning and collaboration between their human rights and climate change experts, national reports provide a platform to document these experiences and share best practice
- Parties should use the opportunity presented by National Communications to the UNFCCC and national reports to the UPR to draw attention to their work on human rights and climate change and facilitate shared learning. This would help to promote a human rights based approach to the implementation of the Paris Agreement at national level and encourage the sharing of experience at international level
- Governments should promote internal coordination between human rights and climate change focal points and policy makers to achieve greater coherence in reporting to international processes.



3. Promote collaboration between civil society organisations (CSOs), national human rights institutions (NHRIs) and national governments to enhance recognition of the linkages between human rights and climate change.

- CSOs can play an important role in encouraging their governments to report on the links between human rights and climate change by participating in public consultations on the formulation of national communications, where available, and submitting information to complement and substantiate national reports to the UPR⁹. CSOs should also play a watchdog role by screening climate policies and actions to evaluate whether they incorporate and promote human rights and bring this to the attention of government or NHRIs
- In addition to their own reporting, NHRIs and other civil society organisations with human rights expertise can proactively engage with, and offer support to, climate change experts to address knowledge gaps and build capacity to report on the human rights aspects of climate change. Platforms like the Geneva Pledge can be used to exchange experiences and share good practice
- Building on the experience of the UPR in the HRC, Parties to the UNFCCC should invite supplementary reports from non-state actors to complement national communications.

9. Civil society actors, including NGOs, with and without consultative status with the United Nations Economic and Social Council (ECOSOC), can submit information to a summary of information submitted by other stakeholders that will be compiled by OHCHR and considered in a State's UPR. For more information read: <http://bit.ly/1f7SXLZ>

WHERE THE OPPORTUNITIES FOR REPORTING CAN BE FOUND

By engaging with human rights experts when preparing National Communications to the UNFCCC, the following sections of the report can be used to address the links between human rights and climate action:

- National Circumstances
- Mitigation actions and effects
- Adaptation and vulnerability
- Means of implementation
- Education, training and public awareness.

In reviewing these sections, the following questions can help guide the information included:

- What human rights are threatened by climate change impacts?
- What safeguards are in place and what active measure are being taken to avoid mitigation or adaptation actions impacting on the rights of vulnerable segments of the population?
- How are mitigation or adaptation actions helping people to realise their human rights?
- How is public participation in the design, planning and implementation of climate action being facilitated?
- Are there resources set aside in order to prioritise the needs of vulnerable populations?

Similarly, when compiling National Reports for the UPR human rights experts can consult with their climate colleagues to answer the above questions. States can also increase the focus on the linkages between human rights and climate change under the UPR by posing questions to the states under review on the human rights challenges presented by climate change.



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