



**Inaugural Climate Law and Governance Day 2015**

**09:30 4<sup>th</sup> December 2015, La Sorbonne**

**Opening Plenary: Securing Climate Justice**

**Mary Robison keynote: Securing Climate Justice and Human Rights**

Bonjour tout le monde.

I am honoured to be part of this inaugural Climate Law and Governance Day. Thanks you to the Sorbonne for insisting that this conference should go ahead. I am of course pleased to be back at the Sorbonne – I have such fond memories of the time I spent in Paris at the age of 17 and appreciate the influence professors from the Sorbonne have had on the way I see and evaluate the world.

In preparing for this speech I went back to a speech made here in the Sorbonne in September 1948 by a woman who has had a great influence on me. Eleanor Roosevelt. The speech entitled 'The Struggle for Human Rights' preceded the adoption of the Universal Declaration of Human Rights in December 1948. I was struck on reading that speech of its resonance today – in a city recently struck by terrorist attacks and now host to a UN Summit on the future of our planet.

So bear with me as I weave some of Eleanor's wise words into my remarks today.

Eleanor Roosevelt started her speech 67 years ago with these words, 'I have come this evening to talk with you on one of the greatest issues of our time -- that is the preservation of human freedom.' This was shortly before the Universal Declaration was adopted in Paris on the 10th December 1948, and her visit to Europe was important in galvanising support.

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She choose to discuss it in France and at the Sorbonne because it was here that the rights of humankind and the principles of liberty, fraternity and equality were born and nourished. It was here the Declaration of the Rights of Man was proclaimed and that the principle of human freedom was developed and defended.

Today it is equally apt that that we are here in Paris where the roots of human freedom were sown and richly nourished to discuss how the rule of law, is applied to climate change, and, by association sustainable development. When I speak about the Climate Agreement being negotiated here in Paris, I often point to the UN Charter and the need to reflect its values in the Agreement to be adopted at COP21.

As Eleanor Roosevelt knew, concern for the protection and promotion of human rights and fundamental freedom stands at the heart of the United Nations. Just as the rule of law is realised through ensuring access to justice and human rights for all.

Ultimately the discussions in COP 21 are about international cooperation. Climate change is a problem that can only be overcome through effective international cooperation. The UN Charter declares in Article 1 that one of the purposes of the UN is 'to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.'

Climate change is an international problem of economic, social, cultural and humanitarian character. It is not, as it was once perceived - and perhaps unfortunately is still perceived by some - a narrow environmental issue. It is about development, economics, society and human rights; and our responses to it will only be effective if they are upheld by the rule of law and guided by human rights norms.

The Charter of the United Nations is a guiding beacon along the way to the achievement of human rights and fundamental freedoms throughout the world. The Universal Declaration of Human Rights, the modern root of international human rights, was intended to set out universal common standards or targets of achievement for all humanity. It could not have achieved the universal legitimacy that it has gained over the last half century, had it not

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recognised economic, social and cultural rights – and these are the rights most directly affected by the impacts of climate change.

The Paris Agreement will influence the direction the world is moving in.... it will, I hope, initiate a transformation in the way we develop, building on the Sustainable Development Goals agreed in September and which all countries will implement from January 2016. So our test is to make sure that this transformation is guided by the values of the UN, and grounded in the human rights and fundamental freedoms it represents. Today we have daily reminders of what is at stake if we fail to uphold these values – for they are the basis of the rule of law.

As you may recall in 2012 there was a high level meeting of the UN General Assembly in New York. At that meeting member states of the UN agreed that development and the rule of law are "strongly interrelated and mutually reinforcing". That Declaration<sup>1</sup> states that the rule of law "is essential for sustained and inclusive growth, sustainable development, the eradication of poverty and hunger and the full realization of human rights and fundamental freedoms, including the right to development".

That meeting helped, I believe, to ensure that the rule of law received more attention in the preparations for and the outcome of the Post 2015 Development Agenda than was the case in the Millennium Development Goals. In fact many commentators have noted that the MDGs failed to deliver the promise of the 2000 Millennium Declaration which had a vision of inclusivity and equity delivered through the rule of law. After all, the rule of law is what can ensure that development reaches everybody – by realising rights, redressing wrongs and minimising human rights abuses. While without it people are excluded from development and suffer as a result.

The New 2030 Agenda for Sustainable Development aims to leave no one behind. As a result it will have to use the rule of law to ensure that sustainable development reaches everyone.

The Declaration of Agenda 2030 states that:

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<sup>1</sup> 1 "Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels", 19 September 2012 (A/67/L.1), available at <http://www.unrol.org/files/Official%20Draft%20Resolution.pdf>.

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‘We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity.’

It adds that through it we envisage a world in which ‘democracy, good governance and the rule of law, as well as an enabling environment at the national and international levels, are essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger. One in which development and the application of technology are climate-sensitive, respect biodiversity and are resilient. One in which humanity lives in harmony with nature and in which wildlife and other living species are protected.’

Not only is the rule of law critical for delivering sustainable development for all, it is also a precondition for resilience environmental protection and a successful relationship between people, and the planet.

Later the Declaration returns to this theme, recognising the links between sustainable development and peace and security.

‘Sustainable development cannot be realized without peace and security; and peace and security will be at risk without sustainable development. The new Agenda recognizes the need to build peaceful, just and inclusive societies that provide equal access to justice and that are based on respect for human rights (including the right to development), on effective rule of law and good governance at all levels and on transparent, effective and accountable institutions.’

Finally Sustainable Development Goal number 16 commits all countries of the world to ‘Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

And critically it includes a target to measure progress towards this goal. Target 16.3 aims to ‘Promote the rule of law at the national and international levels and ensure equal access to justice for all’.

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So the SDGs have learned from the MDGs, and the rule of law and justice for all are on a more solid footing in Agenda 2030. We now have 15 years to make this goal a reality – and doing so will require that we reflect the rule of law in the achievement of all of the Goals- including Goal 13 on climate change.

We know that sustainable development is not possible without action on climate change; and climate action is not possible without sustainable development. Critically, neither is possible without the rule of law and access to justice for all.

Ultimately climate change is a question of justice.

It is an injustice that the people who are suffering the worst impacts of climate change are the least responsible for its causes.

It is an injustice that people go hungry or lose their homes despite the fact that they don't drive a car, own a fridge or contribute to the over consumption that causes climate change.

It is an injustice that people who are already vulnerable, due to gender, race or poverty, have their human rights further eroded by climate change.

This is why I stand for climate justice.

I believe in justice and the rule of law and I believe we can use these tools to protect people and their rights in the face of climate change.

Climate justice links human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly.

So the negotiators working on the new Climate Agreement at COP 21 need to deliver a framework that enables an equitable and ambitious response to the climate crisis, enabling all countries to contribute their fair share. The rules and the legal nature of the agreement will do much to ensure that the Agreement is fair and that its implementation protects the most vulnerable people in societies around the world.

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A legally binding international agreement creates an obligation to act. It also holds the international community and individual states to account for their actions. It would uphold the rule of law and guide countries in their actions.

Research by a Task Force of the International Bar Association, the voice of the global legal profession, published in its report in 2014 entitled – ‘Achieving Justice and Human Rights in an era of Climate Disruption’, concluded as follows:

‘The climate change justice landscape is fragmented and decentralised, due partly to the difficulty of achieving international agreement on addressing climate change itself, and partly to the many areas of relevant international legal activity, but also due to the breadth and complexity of international development and economic activity. Many areas of international law are relevant to the problems raised by climate justice but the law as it stands was not created with the challenge of climate change in mind and is not always well suited to address it.’

The fact is that we created many of our laws in an era before climate change. I have previously commented that when Eleanor Roosevelt and her commission drew up the Universal Declaration of Human Rights they did not envisage a world where human rights would be threatened by the impacts of a warming climate. Let me be modest about my own awareness. From 1997-2002 when I was UN High Commissioner for Human Rights, I have to confess that climate change was not on my radar. But it did come rushing to my attention early in the new century as I travelled through Africa, seeing and hearing about the very real impacts of a changing climate on people’s lives.

The conclusion of the IBA Task Force - that the law as it stands was not created with the challenge of climate change in mind and is not always well suited to address it - is a call to action for legislators, law professors and the legal profession around the world.

Clearly there is a need for progressive climate policies and legislation – but in fact the challenge goes beyond this. The current legal system is designed for a carbon intensive world. This means that the law that governs all aspects of human activity from transport and energy to health and housing is based on an assumption that fossil fuels remain the dominant source of power and energy.

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The challenge we face is to create new policies and law so that they drive and accommodate a transformation to zero carbon, climate resilient development.

Recently my Foundation and others including IDLO, CISDL, CIFOR and CIEL have been documenting case studies that illustrate how legal best practices and human rights can inform climate change policy. The case studies are valuable ways to share experience and learn lessons on how to design the new laws and policies for a zero carbon, climate resilient era of development.

For example, the Philippines' Climate Change Act (2009) establishes a legal and institutional framework for climate change governance. It mainstreams climate resilience into government mandates across sectors and optimises the co-benefits of climate finance for mitigation. Critical to the implementation and oversight of the Act is the Climate Change Commission, the central coordinating body for implementing the Act, which reports to the country's President – raising climate change adaptation and mitigation to the highest political level.

In addition to this high level leadership and commitment – the Act has a strong focus on devolved decision making and implementation. Local government units develop and implement Local Climate Change Action Plans, which prioritise local needs and integrate best practices into development activities. The local nature of these plans facilitates local engagement and oversight of activities.

I learned this from Josephine Castillo, a grassroots community leader with the organisation DAMPA based in Manila. She told me about her work informing households and communities about their rights under the new Climate Act. This includes raising awareness about the provision for 5% of local government spending to be allocated to disaster risk reduction and climate change adaptation. In this way communities can play an active role in holding the government accountable for implementation of the Act.

Josephine's' experience also demonstrates the important role of civil society in implementing policy and bridging the gap between policymakers and communities. Civil society and grassroots organisations can be ideal partners with whom to monitor the cross-

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sector benefits and trade-offs that will be part of new approaches to climate action and sustainable development.

The case studies my Foundation has documented over this last year explore the ways in which human rights can inform climate policy making.

They cover countries as diverse as Costa Rica and Vietnam, Niger and Ecuador. They demonstrate that a commitment to human rights, including specific rights like the right to participation or information, or the right to a healthy environment at the constitutional level and through climate policy and law, can translate into climate actions that benefit both people and planet.

Let me share with you the example of Costa Rica.

In 1994 the Constitution of Costa Rica was amended to incorporate the right to a healthy and ecologically balanced environment. The General Environment Law adopted in 1995 expands on the right to a healthy environment found in Article 50 of the Constitution. One of the principles on which the law is based is that the environment is common heritage and that the State and individuals should participate in its conservation and sustainable use.

Another principle on which this law is based is that the State is obliged to ensure the rational use of the environment in order to protect and improve the quality of life of inhabitants of the country. The State is also required to promote economic and environmentally sustainable development, defined as development that meets basic human needs without compromising the options of future generations.

Prof John Knox, UN Special Rapporteur on Human Rights and the Environment, noted in 2013 that 'There can be no doubt that article 50 provides a strong basis for the country's environmental statutes and policies'.

The case study we documented looked at how this commitment to the right to a healthy environment informed actions to reduce emissions and build resilience in Costa Rica's Livestock sector.



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Livestock farmers such as Eduardo and Janet Obando, were had full access to information about the programme and availed of training to enable their active participation in a range of climate and livelihood related activities.

As a result they experienced benefits including savings and efficiencies as less money is spent on inputs like fertiliser. The farmers have also reaped higher and more stable yields which have improved their incomes and contributed to improving food security.

The actions are not just about reducing emissions, they also increase resilience to climate impacts as cattle are in better health and improved pasture management and increased use of fodder allow livestock to get through periods of drought. Above all farmers like Janet and Eduardo are proud that they are playing their part in the national commitment to protecting the environment, by reducing their GHG emissions, conserving biodiversity and protecting their water resources which contributes to the realisation of the right to health.

The Obando family and thousands of other livestock farmers are contributing more than their fair share to global climate action while enjoying the benefits of a more secure income and improved well-being – all motivated by the country's constitutional commitment to the right to a healthy environment.

The law is a transformative tool and we need to draw on it now to create the means, the legal incentives and protections, to drive an inclusive and equitable transition away from fossil fuels.

I want to close by returning to Eleanor Roosevelt's speech 67 years ago. The world was a very different place then and I hope that 67 years from now, in 2082 it will also be a very different place. I hope that by then my grandchildren will be living in a zero carbon society, that is resilient and equitable, where the rule of law is upheld and everyone has access to justice. 67 years – it's not so far away. Just as the remarks made by Eleanor Roosevelt, in this University, 67 years ago remain relevant today – despite all the changes in the world.

This is the message of hope and courage we need to send to the negotiators and ministers working on the text of the Paris Agreement.

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We can find a common basis of understanding if we are guided by the values that hold use together as an international community, as a united nations.

Let me end with these words from Eleanor Roosevelt that have defined my own life:

‘The future must see the broadening of human rights throughout the world. People who have glimpsed freedom will never be content until they have secured it for themselves. In a truest sense, human rights are a fundamental object of law and government in a just society.’