

Expanding Global Cooperation on Climate Justice

By Mary Robinson and Alice M. Miller*

Mary Robinson and Alice M. Miller outline how a human rights framework should be an essential tool in designing strategies, programmes and institutions to help nations mitigate and adapt to climate change. They focus on institutional issues including the role played by the World Bank and highlight reforms needed. Finally they call for building stronger bridges between human rights and development, and between those working on social justice and environmental justice.

Those monitoring the progress of climate change negotiations have realized the unfortunate fact that governments will not be agreeing final text in Copenhagen in December 2009. But the imperative for governments to reach a fair, ambitious and binding agreement to address climate change remains. One piece of good news is that governments, civil society organisations and the private sector increasingly acknowledge the enormous human and social impacts — not just environmental impacts — that are resulting from climate change. What is missing, though, are concrete and forward-looking binding commitments to frameworks, principles and practices that can constructively address these impacts. This article proposes some steps to get there.

Using the lens of climate justice, and incorporating principles and tools of human rights to guide policy and practical responses to climate change, is an essential aspect of climate change policy work at the global and national level. Climate justice, moreover, is useful in evaluating the financial architecture necessary to support just and sustainable climate interventions. Ultimately, a justice and human rights framework can provide us with a compass to chart the course of climate change responses, and a set of tools that operate at all levels between and within nations.

But much work needs to be done — there is no set template for this process. Many organisations are exploring how to apply principles of fairness drawn from international human rights to the procedures, institutions and programmes being put in place as a response to climate change, whether in reference to the role of the Bretton Woods institutions, UN agencies, national governments, the private sector or civil society.

The climate change negotiations in Copenhagen constitute the 15th Conference of Parties (COP) of the UN Framework Convention on Climate Change (UNFCCC). Neither the discussions leading up to the Copenhagen conference, nor previous conferences, have tackled the question of how nations can meet their human rights obligations relevant to the impacts of climate change, and how this relates to state obligations under the UNFCCC. We believe that the COP should mandate a process within the UNFCCC to support states in the development and implementation of policy that will meet human rights and social justice — as well as environmental justice — concerns.

There is an important opportunity to strengthen global alliances and a global movement to this end in the coming weeks, efforts that undoubtedly will expand between now and the 2010 COP in Mexico City. For those who come to Copenhagen, advocating for more accountable international financing, more equitable distribution of burdens and benefits, and more open access to low-carbon technologies will be important. Equally critical, civil society must raise its voice to ensure that states take essential steps to guarantee an open, transparent and participatory process.

The Elements of Climate Justice

As we tally the many factors that contribute to poverty and undermine human rights and development, climate change is likely to rise to the top of the list. At an increasing pace, climate change is undermining not only development but also the enjoyment of human rights. In arid regions from Africa to India, climate change has affected rainfall so that

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Rights Law Clinic, University of California, Berkeley, School of Law and released by the Clinic, the Miller Institute for Global Challenges and the Law, University of California, Berkeley School of Law and the Center for Law and Global Justice, University of San Francisco School of Law. The report is available at www.humanrightsclinic.org; <http://www.law.berkeley.edu/mgcl.htm>; and www.law.usfca.edu/centers/clgj/index.html. For more information about Realizing Rights, see www.realizingrights.org

droughts are more frequent, and seasonal patterns have changed, challenging traditional knowledge of when to plant and harvest. When the rains do come, they are more likely to bring flooding. Watersheds that bring drinking and irrigation water to poor communities are under threat from Bolivia to Nepal. Groundwater tables are sinking. All of these factors are increasing food insecurity, and making the already unstable livelihoods of poor people ever riskier.

And crucially, all of these impacts are differentiated by existing vulnerabilities within and between countries. Women will be hardest hit because they are principally responsible for household food security, staple food production and procurement of water and firewood in most developing countries. Indigenous peoples, already pushed to the most fragile and marginal lands, will face even greater hardships.

This makes it important for those working on climate and environmental justice to reach out to other networks that have experience in advocating for sustainable development.

Climate justice as a concept represents the confluence of different streams of concern with fairness and ethical relations as they relate to people's use of the world's finite carbon resources. A concern for climate justice is built on the fact that the world's poorest, and those least responsible for the human causes of climate change, are the most vulnerable and exposed to its effects. Africa, for example, is estimated to be responsible for 3.8 per cent of global carbon emissions, yet is suffering greatly from climate change impacts. It is also important to note that responsibility and inequality are unevenly distributed within nations as well as across nations. The historical responsibility of industrialised countries to both mitigate their greenhouse gas emissions, and pay for adaptation costs of developing countries, is clear – the so-called “polluter pays” principle. As Gro Harlem Brundtland, former Prime Minister of Norway, has said, “Developed countries that have reaped tremendous economic growth through their historic reliance on fossil fuels must assume leadership in cutting greenhouse gas emissions. It will also be critical to secure the development and diffusion of appropriate, clean technology and ensure access to necessary financial resources for developing countries to adopt them.”

Two key principles built into the UNFCCC are equity and ‘common but differentiated responsibilities’. We have a common heritage and concern, but our responsibilities are differentiated because of the unequal material, social and economic situations across states, different historical contributions to global environmental problems, and different financial, technological and structural capacity to tackle those problems. This anchors responsibility on past harm done, and raises duties to contribute to international efforts. This is relevant on both the mitigation side – reducing greenhouse gases – and the adaptation side – how the world, nations and individual communities prepare for and cope with the unavoidable and unforeseeable effects of climate change.

The added benefit of human rights frameworks

Climate change responses can be made more effective if human rights criteria are included when assessing future harms, identifying areas of likely vulnerability and evaluating comparatively the various policy measures available for treating identified challenges.

Human rights standards can be defined as providing a threshold below which no one should fall: this commitment necessarily underpins a dialogue on burden sharing to support policies and programmes supporting these rights. So far, this conversation is mostly absent from climate change debates and negotiations. Mechanisms of accountability are needed to underpin our climate regime, because compliance will be vital to credibility. The incorporation of human rights assessments in policy projections could also help to determine who is accountable for what, and how accountability should be attributed.

Last but certainly not least, human rights analysis and advocacy have always paid particular attention to those who are on the margins of society as a result of poverty, powerlessness, or systemic discrimination. Social and economic vulnerability greatly increases the risk of suffering from the impacts of climate change. Those who are less well off often lack the information or resources to make informed choices on adapting to or otherwise avoiding future damages. They are also less likely to have influence over policy-making, and so in times of crises the vulnerability of marginalised groups can increase dramatically.

These approaches strengthen participation, empower people to hold their governments accountable, and address inequalities that constrain sustainable development. They identify the bottlenecks to exercising critical rights including freedom of association, expression, and access to information.

There are already examples of how the absence of a human rights approach in addressing climate change has undermined effective solutions and highlighted the need to evaluate climate finance and the impacts that the structuring of mitigation and adaptation projects and programmes might have. For example, programmes being developed to finance forest preservation to reduce greenhouse gas emissions are raising concerns about who they benefit and how they are structured. If not undertaken carefully and with social safeguards in place they may place resources in the hands of companies instead of indigenous and rural communities without formal land titles or on land under dispute.

While mitigation policies encouraging biofuel production may decrease emissions and bring benefits to certain farmers, they also reduce the land available for food cultivation and increase conflicts over land. Land scarcity translates to decreased food production, which leads to higher prices for staple foods putting poor communities at risk. This is exacerbated by restricted information and unequal or limited participation of affected community members – exclusion that turns on traditional axes of gender, ethnicity, and educational levels, for example.



Adaptation policies may also have unintended human rights consequences, particularly for traditionally marginalised groups. In areas likely to experience the worst impacts of climate change, such as in Sub-Saharan Africa and Asia, women play a primary role in agricultural production. As communities in these regions face increasing food insecurity brought on by climate change, women will bear the brunt of the burden as they struggle to feed their families, often compromising their own health and nutrition to do so. Therefore adaptation policy must consider the gender dynamics of food procurement and distribution within families as well as in markets.

Another example is what will happen to those forced by climate change to cross borders in search of shelter or livelihood. They will likely lack assistance and protection, and may encounter abusive or discriminatory treatment in the receiving state, or barriers to their return home. While relocation of populations may be the most viable solution in some cases, and may be necessary to avoid present harms or mitigate future ones, such a process must consider the wide range of human rights impacts on the displaced. A human rights-based approach can help preserve and protect the rights of those affected.

The role of the World Bank

For those examining the institutional architecture of addressing climate change, there is increasing attention to what role the World Bank will play in receiving and disbursing climate change funding. This remains contentious – many governments and civil society organizations believe that the bulk of climate change funding should be coordinated by and through the UN body responsible for the Convention itself, the UNFCCC. In a recent address at the Bank's annual meetings, Yvo de Boer, Executive Secretary of the UNFCCC, acknowledged a role for multi-lateral development banks. At the same time, he called attention to critiques of the World Bank and said that, “developing countries are by and large dissatisfied with the existing governance system. They have pointed out ... that it doesn't safeguard their needs; they don't have an equitable voice in it; disbursement is too slow; and the international financing system is fragmented.”

These concerns have been echoed by a report released in October by former Mexican President Ernesto Zedillo, which calls for more radical governance reforms at the Bank than those currently on the table. The Zedillo Commission report highlights the need for parity in voting, addressing the anomaly of one major donor having effective veto power within the institution, and calls for greater independent evaluation of the institution.

Despite these concerns and critiques, until donors put significant additional funds into the UNFCCC, the World Bank by default is the world's leading institution addressing climate change – what some have now dubbed ‘the Climate Bank’. In that position, the Bank carries grave responsibilities of which it must be mindful.

First and foremost is the Bank's energy portfolio. The Bank must acknowledge that its continued financing of new coal and other fossil fuel projects undermines its credibility. Its increasing portfolio of renewable energy projects is very welcome. But this proportion is still overshadowed by financing for coal and other projects that represent a huge investment in cumulative increased CO2 for decades to come. The Bank is undertaking a review of its energy investment strategy that will chart a course for the institution for years to come and should reflect the nature of the Bank as a development institution and signal significant shifts in policy. For example, the monitoring arm of the World Bank, the Independent Evaluation Group, found that the Bank has frequently failed to do all it can to ensure that the poor benefit from rural electrification. Materials prepared for the review also highlight the need for energy access for the poor, and yet many of the models put forward should do more to address access for those not on the electrical grid and prioritise local energy needs over export. The Bank's interest in supporting the energy needs of ‘the poor’ is laudable – but surely focusing the lion's share of resources on renewable energy is a better alternative, and one which diffuses investment enterprise benefits across many more actors.

Second, anyone concerned with climate justice and a human rights based approach to tackling climate change will want to see a more explicit commitment from the Bank on using human rights standards in its work. The very good analytical work the Bank has done on the social dimensions of development, highlighted in sentinel publications like the Voices of the Poor series, are important contributions to shaping mitigation and especially adaptation policies, not only for the Bank but also for the programmes of other organisations. On the other hand, the World Bank's environmental and social safeguards do not address international rights standards, with the exception of referencing them in its Indigenous Peoples policy. This ‘rights’ gap should be addressed.

In a field of work where transparency and accountability will be the hallmarks of success, a structure to ensure meaningful feedback loops between persons most affected by Bank supported projects, and the Bank itself, is key. A process must be developed for building an equity and rights metric to assess Bank projects and strengthen internal and external accountability.

Ways forward

Developing countries and civil society have expressed concern about the inclusion of policy conditions as a means of accessing climate finance. However, using a rights framework in a constructive and collaborative way will strengthen the governance and effectiveness of climate finance and programmes. One important step could be for the UNFCCC to be given a mandate through the Copenhagen talks to institute a new process with particular attention to the following capabilities:

- **Clarification of existing human rights standards**
This new process should clarify existing human rights principles and international standards that will be useful for states to apply to all climate change policies and finance. The clarification of these norms should occur through collaboration among governments, existing international bodies, and a diverse group of civil actors. In practice, the resulting guidelines should address the human rights concerns of climate change response measures and establish a “do no harm” principle as the basis for evaluating climate change policies.
- **Facilitation of information sharing**
This process should provide a forum for government and expert dialogue and information sharing. Such a forum would address the impact on human rights of adaptation and mitigation policies. In order to do so, a wide range of information should be solicited regarding these impacts. Examples of such data include multi-disciplinary research that models the impacts of both mitigation and adaptation measures on people; well-documented, evidence-based case studies of climate change policies; comparative research that evaluates the strengths and weaknesses of national climate change policies on human rights; and development and sharing of monitoring systems and research criteria.

- **Provision of technical assistance for participation and implementation**

Many nations are ill-equipped to address the human rights impacts of climate change policies. To address this disparity, the new process should provide technical assistance to states according to their demands and needs. This assistance could take many forms. It might be coordinated with existing global processes and bodies, or might be initiated through regional systems. Alternatively, personnel in state and regional agencies who are already tasked with designing and implementing climate change policy could be trained to integrate rights based assessments directly.

But these important steps will bear fruit only if we create a global network of actors committed to the goal of climate justice who reach beyond their traditional disciplines to work together, including both governments and civil society. Civil society groups who have worked together for years to hold the Bretton Woods institutions accountable are an important part of the solution. The issue of climate change provides an opportunity, even an imperative, to bridge gaps that may exist between groups working on human rights and development, and between those working on social justice and environmental justice. The common thread is the interest in supporting the resilience of affected communities and nations in responding to climate change by strengthening transparency, participation, access to information and accountability.

Ultimately, as the UNFCCC process has already recognized, it is only by drawing together diverse peoples guided by a common framework that we as inheritors and stewards of the planet can succeed in responding to the dangers of climate change. We can find ways to work together to demand urgent action by government negotiators – and Copenhagen is just the next step.

Notes

In addition to the sources drawn on in “Protecting People and the Planet: A Proposal to Address the Human Rights Impacts of Climate Change Policies” [references in the full report at: www.humanrightsclinic.org; <http://www.law.berkeley.edu/mgcl.htm>; and www.law.usfca.edu/centers/clgj/index.html], other useful sources of information on climate justice include *Climate Change and Human Rights: A Rough Guide* from the International Council on Human Rights Policy, available at http://www2.ohchr.org/english/issues/climatechange/docs/submissions/136_report.pdf; the forthcoming *Climate Justice for a Changing Planet* from the UN Non-Governmental Liaison Service, available at <http://www.un-ngls.org/spip.php?article1694>; and *Key Points on Climate Justice* from the Global Humanitarian Forum, available at <http://www.ghf-geneva.org/Portals/0/pdfs/KeyPointsonClimateJusticeTextWeb.pdf>.



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