



Human rights informed climate action: Paris and beyond

Briefing Paper for Human Rights Day Breakfast
07.15 – 09.00, Thursday, 10th December 2015
Parc des Expositions, 93350 Le Bourget (La Salle à Manger)

1. A growing understanding of the links between human rights and climate change

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

Under both the United Nations Framework Convention on Climate Change (UNFCCC) and the Human Rights Council (HRC), the links between human rights and climate change have been well established. 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”¹. In 2010 at COP16 in Cancun, it was agreed that “Parties should, in all climate change related actions, fully respect human rights”².

Since then the HRC has adopted a further four resolutions on the linkages between climate change and human rights, the most recent in June 2015, which called for an analytical study on the impacts of climate change on the enjoyment of the right to health³. Under the UNFCCC, Parties have become increasingly aware of the need for a rights-based approach to the climate crisis. The Peruvian presidency of COP20/CMP10 was the first to officially celebrate Human Rights Day. At ADP 2.8 in February 2015, Costa Rica announced the Geneva Pledge for Human Rights in Climate Action, a voluntary, non-binding initiative whereby the signing States commit to facilitate the exchange of good practices and knowledge between their human rights and climate change experts at a national level.

¹ Resolution 7/23 text found at http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_23.pdf

² Decision 1/CP.16 text available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

³ See Annex 1 for a summary of the relevant resolutions and decisions

20 Parties have signed the Pledge to date⁴. Since the Geneva session, individual Parties and several negotiation blocs have supported the inclusion of human rights provisions in the text of the new climate agreement. At the 21st Conference of the Parties (COP21) Parties have a unique opportunity to affirm this link between human rights and climate change and frame the new climate agreement in the values of the UN.

At this breakfast event, which launches the celebration of Human Rights Day at COP21/CMP11, participants will explore opportunities to strengthen rights informed climate action now and in the years before the new climate agreement comes into effect so that action from 2020 onwards reflects these values. Participants will also discuss the steps necessary to ensure meaningful participation for vulnerable or marginalised groups in climate decision making.

2. Discussing a rights-based approach for climate action

If human rights obligations are not taken into account when designing climate actions they risk having negative impacts on people's lives, particularly if they already live in vulnerable situations. Just as climate change exacerbates existing inequalities, so too can climate actions conceived without attention to people's rights. This year, UN Special Rapporteur on the Right to Food, Hilal Elver, said "Climate change poses severe and distinct threats to food security, and could subject an additional 600 million people to malnutrition by 2080...Those who have contributed the least to global warming are the ones set to suffer the most from its harmful effects"⁵.

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 justice⁶.

The UN Special Rapporteur on Human Rights and the Environment, John Knox, has also undertaken work of relevance to climate change. In his reports to the United Nations Framework Convention on Climate Change, he urges States to take their human rights obligations into account in 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 Special Rapporteur finds "States have an obligation of international cooperation that is highly relevant to global harm such as climate change."⁷

⁴ As of 1 September 2015, Belgium, Chile, Costa Rica, France, Germany, Guatemala, Ireland, Marshall Islands, Kiribati, Maldives, Mexico, Micronesia, Palau, Peru, Philippines, Samoa, Sweden, Switzerland, Uganda and Uruguay, had signed on to the Geneva Pledge.

⁵ Climate change poses major threat to food security, warns UN expert – Available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=16702#sthash.W1pnGuSI.dpuf>

⁶ Women's land rights in a changing climate: a case study from Maradi, Niger available at: <http://www.mrfcj.org/pdf/case-studies/2013-04-16-Niger.pdf>

⁷ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14348&LangID=E>

Parties to the UNFCCC are already taking action to protect human rights. Given the risks posed to human rights by climate change, all actions to reduce greenhouse gases decrease 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. Furthermore, research commissioned by the Mary Robinson Foundation-Climate Justice⁸ in 2014 shows that some countries are already acting in accordance with the commitment made in the Cancun Agreements. 49 countries made explicit references to human rights in their National Communications submitted since 2010 or in National Adaptation Programmes of Action (NAPAs).

3. Discussing meaningful participation in creating climate policy

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, 2014⁹

Central to the realisation of a human rights approach to climate action is realising the right to participation. The Principles of Climate Justice developed by the Mary Robinson Foundation - Climate Justice include a call for decisions on climate change to be participatory, transparent and accountable¹⁰. The right to political and public participation is also enshrined in Principle 10 of the Rio Declaration and especially, in Article 25 of the International Covenant on Civil and Political Rights and Article 6 of the United Nations Framework Convention on Climate Change.

There are many examples that indicate climate actions that are designed, planned and implemented in a participatory manner lead to stronger outcomes while protecting human rights. In Brazil, for example, participation of indigenous communities in the management of forest resources has led to lower levels of carbon dioxide emissions and deforestation. Deforestation in indigenous community forests was 1% between 2000 and 2012, compared to 7% in forests that were not managed by indigenous communities¹¹.

This is further supported by research conducted by the Mary Robinson Foundation – Climate Justice in 2015. The research found that strong linkages between the right to participation and environmental rights in Ecuador have led to climate action which can bring about socio-economic benefits for vulnerable communities while enabling robust forest conservation. This was illustrated through Socio Bosque, an initiative of Ecuador's Ministry of the Environment, launched in 2008 with the intention of conserving 4 million hectares of forest and improving the lives of 1 million people. The programme was framed in human rights, responding to the Constitution and National Climate Strategy in Ecuador. Medardo Ortiz, a father and local school teacher from a small indigenous community in the Dureno region explained how the Socio Bosque programme benefits his community: "We are happy to

⁸ <http://www.mrfcj.org/pdf/2014-10-20-Incorporating-Human-Rights-into-Climate-Action.pdf>

⁹ Achieving Justice and Human Rights in an Era of Climate Change Disruption available at: <http://www.ibanet.org/PresidentialTaskForceCCJHR2014.aspx>

¹⁰ <http://www.mrfcj.org/principles-of-climate-justice/ensure-that-decisions-on-climate-change-are-participatory-transparent-and-accountable/>

¹¹ <http://www.wri.org/securingrights>

maintain our long tradition of taking care of the forest and pass it along to our own children. This programme shows the positive impact we can have on the forest and the planet when our work is valued”¹².

Having an effective voice requires capacities and the material conditions on which meaningful political participation depends¹³. It is essential to promote participatory rights in national-level policymaking as well as in the decision-making processes of global institutions in relation to climate change. Article 4 of the UNFCCC calls on all Parties to “encourage the widest participation in this process, including that of non-governmental organizations” and Article 6 requires Parties to “[Promote and facilitate]... Public participation in addressing climate change and its effects and developing adequate responses”. The challenge lies in ensuring that this participation is meaningful and effective, rather than tokenistic. The voices of the most vulnerable to climate change must be heard and acted upon.

4. Discussion Questions

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

- I. Climate change has implications for the enjoyment of 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.

Question 1: Respecting human rights can maximise the benefits and minimise the risks posed by climate action, what can we do as government representatives, policy makers and civil society actors to advance this?

In the face of climate change, the global community must strive to respect and protect human rights, not just by mitigating the impacts of climate change, but also by ensuring that the response to climate change is good for people as well as the planet.

Question 2: Based on your experience can you share examples of enabling participation in climate policy and action. We are interested to hear about the approach that was taken, the benefits of a participatory approach for policy making and for people, and any barriers to meaningful participation.

Participation is an example of a procedural right that can improve the effectiveness of climate policies and result in benefits for people and the planet. The right to participation is well established within the UNFCCC with Article 6 referring to education, training and public awareness in relation to climate change negotiations, stating that Parties to the Convention shall promote and facilitate “Public participation in addressing climate change and its effects and developing adequate responses”.

¹² <http://www.mrfcj.org/wp-content/uploads/2015/11/MRFCJ-Rights-for-Action-edition-2.pdf>

¹³ Hurrell, A. (2006) Power and Legitimacy in Global Governance.

https://www.princeton.edu/~pcglobal/conferences/normative/papers/Session4_Hurrell.pdf

Annex

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 (UNFCCC) 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 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/CP16 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. 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 scheduled a full day discussion which was held during its twenty eighth session with two panels on themes relating to human rights and climate change.

Subsequently, at the twenty ninth session of the Human Rights Council, a further resolution related to climate change was adopted (29/15) which decided to incorporate a panel discussion on the adverse impact of climate change on States’ efforts to progressively realise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health into the thirty first session. The resolution also requested the Office of the High Commissioner to conduct an analytical study on the relationship between climate change and the right to health.

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 would ensure the implementation of the agreement would protect human rights. The Special Procedures Mandate Holders have also been investigating how climate change impacts their specific mandates. For example, in stating her vision for her new mandate to the General Assembly in August 2014, Hilal Elver, Special Rapporteur on the Right to Food, cautioned that “Without the implementation of serious measures to combat climate change, the number of people at risk of hunger is projected to increase by 10 -20 per cent by 2050.”¹⁴

Throughout 2015 the support for human rights provisions in the agreement increased dramatically, with tens of Parties and 3 negotiating blocs recognising the importance of respecting and protecting human rights as the world moves to take action on climate change. This increased awareness of the importance of rights informed climate action is typified by the support for the Geneva Pledge¹⁵, a voluntary, non-binding initiative whereby the signing States promise to facilitate the exchange of good practices and knowledge between their human rights and climate change experts at a national level with a view to strengthen their capacities to deliver responses to climate change that are good for people and for the planet.

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 Disruption¹⁶. 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 Environment¹⁷ and the Health and Human Rights Journal on climate justice¹⁸, and the Climate Justice Resource Hub¹⁹ hosted by Glasgow Caledonian University.

¹⁴ Right to food, interim report of the Special Rapporteur on the right to food, Hilal Elver, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/498/25/PDF/N1449825.pdf?OpenElement>

¹⁵ Further information on the Geneva Pledge is available at: <http://bit.ly/1J7UXjN>

¹⁶ Achieving Justice and Human Rights in an Era of Climate Change Disruption available at: <http://www.ibanet.org/PresidentialTaskForceCCJHR2014.aspx>

¹⁷ Journal of Human Rights and the Environment, June 2014 available at: <http://www.elgaronline.com/view/journals/jhre/5-0/jhre.2014.5.issue-0.xml>

¹⁸ Health and Human Rights Journal, Vol 16 Number 1 available at: http://www.hhrjournal.org/?page_id=4278

¹⁹ <http://www.gcu.ac.uk/climatejustice/>