



Annual Reports:

Climate Change and Human Rights;

**and Implementation of the Human Rights Obligations
Relating to the Environment**

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Statement

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- o Excellencies, distinguished delegates, ladies and gentlemen,
 - o Four years ago, the Council recognized that the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment required clarification. The Council requested me to study those obligations, in consultation with Governments and other stakeholders, and to identify best practices in their use.
 - o In 2014 and 2015, I presented two reports that responded to these requests. The first mapped the statements of international bodies on the human rights obligations relating to the environment, and the second described more than 100 good practices in the use of those obligations. In the mapping report, I concluded that the obligations have become coherent and clear enough that States should take them into account. However, I also noted that the obligations continue to be developed in many forums, and I identified areas where further clarification was necessary.
 - o Last year, in resolution 28/11, the Human Rights Council renewed the mandate, changed my title to Special Rapporteur, and added new responsibilities.

- o In particular, the Council requested that I devote attention to implementation of the human rights obligations relating to the environment. At the same time, the Council recognized the ongoing need to clarify some aspects of these obligations, and it asked me to continue to study them and identify good practices in their use.
- o Today, I present two reports, one on each of these two aspects of the mandate.
- o The first report focuses on clarifying the human rights obligations relating to the greatest environmental challenge of the 21st century: climate change. The second report examines methods of implementing all of the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.
- o I will first describe the report on climate change, and then the report on implementation.

Climate Change and Human Rights

- o The Council adopted its first resolution on climate change and human rights eight years ago. That was a transformative moment.
- o In the succeeding years, and as recently as this very morning, in the panel we just heard on climate change and the right to health, the Council and its special procedure mandate holders have explored how climate change interferes with the enjoyment of human rights.
- o As I and several of my colleagues explained last year, in a report we prepared for the Climate Vulnerable Forum, increasing temperatures by even one or two degrees adversely affects a vast range of human rights, including the rights to life, health, food, water, housing, development, and even the right to self-determination of peoples living in small island states.
- o And, as the Council has repeatedly recognized, the effects of climate change are felt disproportionately by those who are already most vulnerable, and who have contributed the least to the problem, such as those living in extreme poverty. In this sense, climate change is inherently discriminatory.
- o Sadly, we no longer have to rely solely on speculation to understand what it means to live on a warmer planet. Last year, the hottest in modern history, demonstrated some of the characteristics of this new world, including:
 - increased frequency and severity of extreme weather events, such as Typhoon Koppu, which killed dozens and displaced hundreds of thousands in the Philippines in October;
 - record floods, such as those in December that killed hundreds and displaced nearly two million people in and around Chennai, India, that devastated towns across the United Kingdom, and that forced the evacuation of thousands of people in Argentina, Brazil, Paraguay and Uruguay;

- and extreme drought conditions, such as those currently threatening the lives of millions of people across eastern and southern Africa.
- o 2015 was only about one degree warmer than the pre-industrial average. Human rights norms, and common sense, tell us that we simply cannot accept the increased rates of death, injuries, illness, displacement and hardship that would accompany a world that is two or three degrees warmer.
- o For these reasons, all 73 mandate holders, as well as many others, urged the Conference of the Parties to the United Nations Framework Convention on Climate Change to recognize the threat climate change poses to human rights, to adopt strong and effective measures to address that threat, and to ensure that all response actions respect and protect human rights.
- o The Conference of the Parties responded.
- o The Paris Agreement adopted on December 12 includes the strongest human rights language in any environmental treaty: Its preamble states that the Parties “should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.
- o The Paris Agreement adopted on December 12 states the aim of the Parties “to strengthen the global response to the threat of climate change ... including by holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change”.
- o The Paris Agreement thus signifies the recognition by the international community that climate change poses unacceptable threats to the full enjoyment of human rights and that actions to address climate change must comply with human rights obligations.
- o This is a real achievement, and the Council can be proud of the role it has played in achieving that result.
- o But Paris is only the beginning. Now comes the difficult work of implementing and strengthening the commitments made there. In that effort, human rights norms will continue to be of fundamental importance.
- o In this report, I emphasize that human rights obligations apply not only to decisions about how much climate protection to pursue, but also to the mitigation and adaptation measures through which the protection is achieved.

- o In some respects, the application of these obligations is relatively straightforward.
- o As I have previously explained, human rights bodies agree that to protect against environmental harm that impairs the enjoyment of human rights, States have several procedural obligations, including duties: (a) to assess environmental impacts and make environmental information public; (b) to facilitate public participation in environmental decision-making; and (c) to provide access to remedies for harm. These obligations have bases in civil and political rights, but they have been clarified and extended in the environmental context on the basis of the entire range of human rights at risk from environmental harm.
- o These duties clearly apply to climate change in particular, and with no less force when States are taking mitigation or adaptation measures.
- o To enable informed public participation, the rights of freedom of expression and association must be safeguarded for all people in relation to all climate-related actions, including for individuals who oppose specific projects designed to mitigate or adapt to climate change. To repress persons expressing their views on a climate-related policy or project, whether they are acting individually or together with others, is a violation of their human rights. States have clear obligations to refrain from interfering with those seeking to exercise these rights, and States must also protect them from threats, harassment and violence from any source.
- o At the international level, States should ensure that projects supported by climate finance mechanisms respect and protect all human rights, including the rights of information, participation and freedom of expression and association.
- o Substantively, each State has an obligation to protect human rights against the harmful effects of climate change. This obligation means that each State must do what it can, with international assistance when necessary, to establish and implement effective mitigation and adaptation measures.
- o But it is obvious that no State can adequately protect against climate change merely by acting on its own. States also have a duty of international cooperation, which requires them to work together to combat this global challenge to human rights, including by keeping the temperature increase as low as possible.
- o The target in article 2 of the Paris Agreement is consistent with that obligation.
- o But States themselves have already recognized that their nationally determined contributions, even if fully implemented, would not avoid temperature increases of well over two degrees Celsius, and quite possibly over three degrees.
- o Therefore, even if they meet those commitments, States will not satisfy their human rights obligations.

- o From a human rights perspective, then, it is necessary not only to implement the current intended contributions, but also to strengthen their commitments to meet the target set out in article 2 of the Paris Agreement.
- o States agreed in Paris to review the adequacy of their commitments through stocktaking exercises every five years, beginning in 2018. However, it is already clear that States must begin to move beyond their current commitments even before the first stocktaking, in order to close the gap between what is promised and what is necessary.
- o Other elements of the agreement reached in Paris are also integral to the implementation of the duty of international cooperation. In particular,
 - the Paris Agreement calls on the parties to strengthen their cooperation on enhancing action on adaptation; and
 - developed countries reiterated in Paris their commitment to assist developing countries with respect to both mitigation and adaptation, and stated that before 2025, they will set a new goal from a floor of \$100 billion, taking into account the needs and priorities of developing countries.
- o The human rights norms relating to protection of the environment indicate that once States have adopted measures to protect human rights from environmental harm, they must implement those measures in good faith. The commitments made in the Paris Agreement are elements of the collective decision of States on how to address climate change. All of them - the commitments for assistance as much as the commitments for mitigation and adaptation - should be implemented fully, and strengthened as necessary, to protect against the effects of climate change on human rights.
- o **Now, I will say a few words about my report on implementation.**
- o In its resolution last March, the Human Rights Council requested me to convene an expert seminar on the effective implementation of human rights obligations relating to the environment.
- o In accordance with that request, and with the support of OHCHR and the United Nations Environment Programme, I organized an expert meeting last October. I also held a public consultation on implementation, and received more than 40 written submissions.
- o Drawing on all of those sources, this report describes possible methods of implementing human rights obligations relating to the enjoyment of a healthy environment. Although the methods listed are not exhaustive, they give a wide range of approaches that would further the following goals, among others: (a) disseminating information about the human rights norms relating to the environment; (b) building capacity; (c) protecting the rights of those who are most vulnerable; and (d) strengthening cooperation between different actors.

- o In addition, these proposals would also support achievement of the Sustainable Development Goals.
- o To save time, I will focus on those proposals aimed at the Human Rights Council, although the report also includes a large number of proposals for other entities, including international organizations, civil society organizations, and Governments.
- o A common theme was the importance of raising awareness of the human rights norms relating to the environment. A number of participants suggested that one way to achieve this goal would be through the adoption of a new international instrument. Advocates argued that it would highlight the connection between human rights and environmental protection, help to shape national laws, and enhance implementation at multiple levels.
- o I recognize the potential value of an international instrument, but I agree with those who believe that an intergovernmental drafting exercise is probably premature. While many of the norms in this area are well established, others require further clarification, and still others are evolving. Trying to codify the norms prematurely could interfere with their further development.
- o Another common theme in the discussion was the importance of providing additional forums in which the human rights community and the environmental community could come together to share views and experiences. It was suggested, for example, that the Council establish an international forum, such as the annual Forum on Business and Human Rights, which would focus on human rights and the environment.
- o Another set of proposals had to do with greater use of the universal periodic review mechanism as an effective tool to promote implementation by States of their human rights obligations related to the environment.
- o Finally, a recurring theme in almost all of the Special Rapporteur's consultations since 2012 has been the threats to environmental human rights defenders. Those who are working on the front lines of environmental protection are most at risk of threats, violence and murder. The Special Rapporteur has repeatedly said that States need to do more to protect environmental human rights defenders. One important step in that regard would be for the Human Rights Council to adopt a resolution in which it recognized the important contributions of environmental rights defenders and addressed the criminalization, harassment and even death that they often face.
- o Many useful suggestions were directed at my own work. For example, I was urged to facilitate better understanding of the relevant human rights obligations, including by developing and disseminating clear and understandable guidance summarizing the relevant norms and explaining the benefits of a human rights perspective on environmental issues.
- o I will take this on in the coming year.

- o I am continuing to work on implementation in other ways. For example,
 - Together with UNEP and academic partners in the United States and South Africa, I am helping with a judicial workshop next month in Johannesburg on human rights and the environment.
 - Together with UNDP and UNITAR, I am developing an online course on human rights and the environment.
 - I am engaged with other international organizations. Last fall, I met with the ASEAN Intergovernmental Commission on Human Rights; I met with the Secretariat of the UNFCCC this Monday and Tuesday; I plan to meet with the Inter-American Commission on Human Rights in April; I will attend the quadrennial conference of the International Union for the Conservation of Nature next September; and I will speak to the Committee on the Rights of the Child at a Day of General Discussion on children's rights and the environment.
 - I am working with the Universal Rights Group and other partners on an online information hub for environmental human rights defenders.
- o Finally, I have been discussing dates for country visits with several countries, and I expect to make two country visits this year.
- o In conclusion, I would like to thank the Council for its decision to renew my mandate as a Special Rapporteur, and to express my gratitude to the many people, all over the world, who provide such invaluable support for this mandate.
- o Thank you, Mr. President.