

**CONSULTATION ON RELATION BETWEEN HUMAN RIGHTS AND CLIMATE CHANGE
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**Convened by the United Nations Independent Expert on human rights and the environment,
the Friedrich-Ebert-Stiftung (FES),
and the Office of the High Commissioner for Human Rights (OHCHR)**

1. Background

The Independent Expert on human rights and the environment is mandated by the Human Rights Council (Resolution 19/10) to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to identify and promote best practices on the use of human rights obligations and commitments to inform, support and strengthen environmental policy making.

To inform this work, the Independent Expert has held a series of consultations in different regions of the world devoted to particular sets of thematic issues. Previous consultations have focused on procedural rights and duties, the relationship between environmental protection and substantive rights and duties, environmental protection and the human rights obligations related to members of groups in vulnerable situations, how international institutions and mechanisms can integrate human rights with environmental protection, constitutional rights to a healthy environment, and the protection of environmental human rights defenders.

This consultation builds on the previous consultations by continuing to examine the relationship between human rights obligations and environmental protection, with a focus on climate change. It also constitutes a continuation of FES' efforts to foster dialog between experts addressing debates at the HRC and the UNFCCC respectively with the aim to strengthen the human rights dimension in climate change policies.

Human Rights and climate change

There can no longer be serious doubt that climate change, like other environmental harms, can and does interfere with the enjoyment of human rights recognized and protected by international law. The effects of climate change on human rights have been described by special rapporteurs appointed by the Human Rights Council, the principal UN human rights body,¹ and the Council itself has recognized the grave implications climate change has for

¹ See e.g. *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context*, UN Doc. A/64/255 (2009); *Climate Change and the Human Rights to Water and Sanitation: Position Paper*, available at http://www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf.

human rights.² The most detailed examination by a human rights body of the effect of climate change on human rights is a 2009 report prepared by the Office of the High Commissioner for Human Rights (OHCHR) at the request of the Human Rights Council.³ That report detailed the adverse impacts of climate change on a spectrum of human rights, including the rights to life, food, water, the highest attainable standard of health, housing and self-determination.

The question then arises: what *duties* does human rights law place on States with respect to climate change? In his report to the Human Rights Council presented in March 2014, the Independent Expert summarized statements of a wide range of human rights bodies on the human rights obligations relating to environmental harm generally. The report concluded that these obligations include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to remedies, and substantive obligations to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors. Moreover, States have a general requirement of non-discrimination in the application of environmental laws, and they may have additional obligations to members of groups particularly vulnerable to environmental harm, such as women, children and indigenous peoples.

However, the sources reviewed did not provide much detail on how these obligations apply to harm caused by climate change. In the words of the report, “Although it is clear that States have an obligation of international cooperation, which is of obvious relevance to global environmental problems such as climate change, clarification of the content of extraterritorial human rights obligations pertaining to the environment is still needed.” Although scholars and experts have addressed this issue in recent years,⁴ the link between

² See e.g. UN Human Rights Council res. 10/4, ¶ 3 (Mar. 25, 2009), U.N. Doc. A/HRC/10/4.

³ Office of the UN High Comm’r for Human Rights [OHCHR], Report on the Relationship Between Climate Change and Human Rights, UN Doc. A/HRC/10/61 (2009). Scholars are also paying greater attention to the topic in recent years. See, e.g., Human Rights and Climate Change (Stephen Humphreys ed., 2010); International Council on Human Rights Policy, Climate Change and Human Rights: A Rough Guide (2008). Daniel Bodansky, *Introduction: Climate Change and Human Rights: Unpacking the Issues*, 38 Ga. J. Int’l & Comp. L. 511 (2010); Edward Cameron & Marc Limon, *Restoring the Climate by Realizing Rights: The Role of the International Human Rights System*, 21 Rev. EC and Int’l Env’tl. L. 204 (2012); John H. Knox, *Climate Change and Human Rights Law*, 50 Va. J. Int’l L. 163 (2009); Ole W. Pedersen, *The Janus-Head of Human Rights and Climate Change: Adaptation and Mitigation*, 80 Nordic J. Int’l L. 403 (2011); Pamela Stephens, *Applying Human Rights Norms to Climate Change: The Elusive Remedy*, 21 Colo. J. Int’l Env’tl. L & Pol’y 49 (2010).

⁴ See, e.g., Human Rights and Climate Change (Stephen Humphreys ed., 2010); International Council on Human Rights Policy, Climate Change and Human Rights: A Rough Guide (2008). Daniel Bodansky, *Introduction: Climate Change and Human Rights: Unpacking the Issues*, 38 Ga. J. Int’l & Comp. L. 511 (2010); Edward Cameron & Marc Limon, *Restoring the Climate by Realizing Rights: The Role of the International Human Rights System*, 21 Rev. EC and Int’l Env’tl. L. 204 (2012); John H. Knox, *Climate Change and Human Rights Law*, 50 Va.

human rights obligations and climate change warrants further investigation and clarification. To highlight several possible avenues of discussion:

- What obligations do States have within their territory to take adaptation and/or mitigation measures to address climate change? For example, do the procedural and substantive obligations described above apply to the harmful effects of climate change, and if so, how?
- Human rights standards would apply not only to the decisions of the international community about how much climate protection to adopt, but also to the measures through which the protection was achieved. How should human rights obligations apply to response measures?
- What human rights obligations and duties do States have with respect to harm outside their territory that is caused by climate change? Do such duties differ depending on whether discussing adaptation or mitigation measures?
- One commonly noted obstacle to applying obligations on States to address climate change has to do with the difficulty of tracing clear causal links between anthropogenic contributions to climate change and the effects of climate change on the enjoyment of human rights. How can this issue be satisfactorily addressed?
- Which groups are particularly vulnerable to the impacts of climate change, and what obligations do States have with respect to such groups?
- How should a human rights perspective inform international cooperation to address climate change, including through the UNFCCC framework?
- What additional measures can the United Nations human rights mechanisms, including the Human Rights Council, Special Procedures, and treaty bodies take to address climate change?

With respect to all of these questions, the discussion will aim not only to identify possible obligations but also to identify good practices related to using a human rights approach to

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address climate change? Further instructions on how the Independent Expert has defined good practices will be circulated prior to the consultation.

2. Objectives of the consultation

The objectives of this consultation are to:

- i) Identify human rights obligations with respect to climate change;
- ii) Identify good practices at international, regional and national levels related to using a human rights approach to address climate change;
- iii) Offer a platform for dialogue between participants, including facilitating the exchange of experiences, knowledge and lessons learned; and
- iv) Increase awareness of a human rights based approach to climate change policy development and protection.

3. Outputs

This consultation will inform the work of the Independent Expert in studying human rights obligations and good practices in their use.

Good practices as well as challenges and lessons learned identified during the consultation will also be compiled as part of the joint UNEP/OHCHR/Independent Expert good practice project, including the Independent Expert's next report to the Human Rights Council to be presented in March 2015. Enhanced understanding of the link between the debates at the HRC and the UNFCCC will also constitute the basis for a side-event presentation by the IE at COP 20 in Lima in December 2014.

The consultation will also provide an opportunity for the human rights and the climate change / environment communities to meet and exchange experiences, which in turn will lead to strengthened capacities to further promote synergies between human rights and climate change.

4. Participants

The consultation will gather approximately 30 participants from a wide range of actors and backgrounds, including civil society organizations, national human rights institutions, academics and international organizations.

5. Format

The Chatham House rules shall be observed during the discussion (i.e. points raised during the discussion will not be ascribed to any specific participant), to encourage those contributing to do so as candidly as possible.

The consultation will take place in English only.