

## HUMAN RIGHTS ANALYSIS OF THE DOHA GATEWAY (UNFCCC 18TH CONFERENCE OF THE PARTIES)

In December 2012, the negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol were held in Doha, Qatar. The set of decisions adopted by the Parties, known as the Doha Gateway, do not explicitly reference human rights.<sup>1</sup> However, the Parties discussed several rights-related issues that have real impacts on the lives and livelihoods of those most vulnerable to climate change. Integrating a human rights approach is critical in helping to ensure that governments take action to avoid the most devastating impacts of climate change, and that adaptation and mitigation measures do not cause further suffering. It also promotes the full and effective participation of affected individuals and peoples in decision-making processes.

Although human rights are not explicitly included in the Doha Gateway, human rights are included in the overall outcome (for the 2012-20 period) by reference to the Cancun Agreements (Decision 1/CP.16).<sup>2</sup> The Cancun Agreements were an important step forward in the climate regime's recognition of the human rights implications of climate change and of the measures taken to mitigate and adapt to it. Most importantly, the Cancun Agreements explicitly recognize that UNFCCC Parties have human rights obligations, and that they should fully respect human rights in all climate change-related decisions.<sup>3</sup> Despite the slow progress in Doha in operationalizing this language thus far, the upcoming UN climate negotiations should provide several opportunities to acknowledge and strengthen the relationship between human rights and climate change.

This paper analyzes key human rights issues addressed during the negotiations and in the Doha Gateway, with a particular focus on: level of ambition to address climate change; approaches to address loss and damage; Reducing Emissions from Deforestation and Forest Degradation (REDD+); Clean Development Mechanism (CDM); public participation in the context of UNFCCC Article 6; and gender issues.

### I. RAISING AMBITION OF MITIGATION ACTIONS AND SUPPORT

Failing to take necessary action to mitigate climate change will significantly impact the rights of vulnerable peoples and communities. Current mitigation pledges fall far short of what is needed to keep global temperature rise to below 2°C, let alone the 1.5°C goal that is supported by many countries.<sup>4</sup> If governments do not take immediate steps to mitigate climate change, then

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<sup>1</sup> See UNFCCC and Kyoto Protocol decisions adopted in Doha (2012), available at [http://unfccc.int/meetings/doha\\_nov\\_2012/meeting/6815/php/view/decisions.php](http://unfccc.int/meetings/doha_nov_2012/meeting/6815/php/view/decisions.php). The UNFCCC decisions were adopted by the 18th Conference of the Parties (COP) and the Kyoto Protocol decisions were adopted by the 8th Conference of the Parties meeting as the Parties to the Kyoto Protocol (CMP).

<sup>2</sup> UNFCCC COP Decision 1/CP.16, Outcome of the Ad-Hoc Working Group on Long-term Cooperative Action (2010), available at, <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=2> [hereinafter Cancun LCA Decision].

<sup>3</sup> *Id.* at para. 8.

<sup>4</sup> See UNFCCC COP Decision 1/CP.18, Agreed Outcome Pursuant to the Bali Action Plan, section II:A preamble 2 and II:B preamble 3 (2012), available at <http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf> [hereinafter Doha LCA Decision].

consequences will be dire,<sup>5</sup> especially for those most vulnerable to but least responsible for climate change.

The Doha climate talks were a critical moment for governments to commit to more ambitious targets and actions, as they concluded formal negotiations for climate action beyond 2012 and outlined plans for negotiating action beyond 2020 (see Box below). Unfortunately, governments failed to take concrete action, demonstrating a serious lack of political will to do what is necessary to address the climate crisis. Parties did, however, agree on processes to increase the ambition for mitigation actions and necessary support (financial, technological, and capacity support) over the short-and long-term.

#### KEY ARCHITECTURAL OUTCOMES

In Doha, Parties concluded negotiations on the architecture of the international climate regime for the 2013-20 period. They also continued to negotiate on the regime beyond 2020, with a focus on how to raise the ambition for mitigation action as well as requisite financial, technological, and capacity building support. With respect to key architectural outcomes, the Parties:

- Adopted a second commitment period of the Kyoto Protocol (KP) from 2013-2020, through negotiations in the Ad-Hoc Working Group on Further Commitments for Annex 1 Parties Under the KP (AWG-KP);
- Concluded negotiations in the Ad-Hoc Working Group for Long-term Cooperative Action (AWG-LCA), which includes corresponding mitigation pledges for developed countries not participating in the second KP commitment period and developing countries; and
- Established an agenda and work plan for the Ad-Hoc Working Group on the Durban Platform for Enhanced Action (Durban Platform), including initiating two workstreams focusing on short-term and long-term action.

Collectively, the decisions reflecting the work of the AWG KP and the AWG-LCA were intended to form the immediate post-2012 climate regime. However, despite its formal closure, Parties delegated a number of important issues in the AWG-LCA to work programmes and subsidiary bodies for further consideration. In addition, both the Durban Platform and the Kyoto Protocol contain mandates for raising the short-term ambition of actions to address climate change. Thus, key elements of the 2013-20 regime are still unresolved and are expected to be finalized over the next two years.

While it is significant that the Parties collectively adopted a second commitment period of the KP, some Kyoto Parties did not agree to targets in that new phase. Canada withdrew from the KP last year, and Japan, New Zealand, and Russia decided not to be included in the second commitment period. Moreover, those countries that did agree to a second commitment period failed to increase their mitigation targets.

References: UNFCCC COP Decisions 1/CP.18 (Agreed Outcome Pursuant to the Bali Action Plan) and 2/CP.18 (Advancing the Durban Platform), and Kyoto Protocol CMP Decision 1/CMP.8 (Amendment to the Kyoto Protocol).

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<sup>5</sup> See generally, World Bank Report, *Turn Down the Heat: Why a 4 Degree Centigrade World Must be Avoided* (2012), available at [climatechange.worldbank.org/sites/default/files/Turn\\_Down\\_the\\_heat\\_Why\\_a\\_4\\_degree\\_centigrade\\_warmer\\_world\\_must\\_be\\_avoided.pdf](http://climatechange.worldbank.org/sites/default/files/Turn_Down_the_heat_Why_a_4_degree_centigrade_warmer_world_must_be_avoided.pdf).

*Short-Term Ambition and the 2013-20 Regime:* Raising the ambition for short-term mitigation action and support must be a top priority for the negotiations over the next two years. As agreed in the LCA outcome, Parties must “work urgently” toward deep cuts in emissions to reach the long-term global goal of holding temperature rise to “below 2°C above pre-industrial levels.”<sup>6</sup> Furthermore, these efforts “should be undertaken on the basis of equity and common but differentiated responsibilities and respective capabilities ... and take into account ... equitable access to sustainable development, the survival of countries and protecting the integrity of Mother Earth.”<sup>7</sup> This language is significant because it creates space for the discussions on ambition to take into account the rights of vulnerable populations. Indeed, it will be important to build on these hard-fought references in framing the principles that will guide negotiations on ambition under the Durban Platform as well (see below).

In addition to this overarching call for urgent action, Parties elaborated two parallel processes to actively increase the level of ambition in the 2013-20 regime. The first is under “workstream 2” of the Durban Platform, which will explore ways to close the gap between the level of mitigation that is needed and current mitigation pledges for the 2013-20 timeframe.<sup>8</sup> This work will be informed by the proposals Parties and observers submitted in March, 2013.<sup>9</sup> Among the issues being considered is how principles of the Convention will apply to the work on short-term ambition.<sup>10</sup> From a human rights perspective, this is important because it is an opportunity to introduce human rights considerations into the workstream. Notably, while Parties agreed to explore options in 2013, they did not develop a plan of work for 2014.<sup>11</sup> Given the urgent need to increase short-term ambition, it will be important to push for a robust work plan with a clear deadline for completing work by the end of 2014.

The second process to increase ambition is established under the Kyoto Protocol. Although Parties adopted a second commitment period of the Kyoto Protocol, which is politically and architecturally significant, the mitigation targets are weak. In Doha, Parties recognized the need to increase these targets, and decided that Annex I Kyoto Parties must revisit and adjust their targets for the second commitment period by 2014.<sup>12</sup> However, the stated aggregate emission reduction goal for Annex 1 Kyoto Parties ranges from 25-40% below 1990 levels;<sup>13</sup> there should be no question that to address the gap in mitigation efforts, Parties should at least be aiming for the higher range (i.e. 40%), if not more.

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<sup>6</sup> Doha LCA Decision, *supra* note 4, at para. 1.

<sup>7</sup> *Id.* at para. 2.

<sup>8</sup> UNFCCC COP Decision 2/CP.18, Advancing the Durban Platform, para. 5 (2012), *available at* <http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf> [hereinafter Doha ADP Decision].

<sup>9</sup> Submissions are listed under “Implementation of all the elements of decision 1/CP.17, (b) Matters related to paragraphs 7 and 8.” Party submissions can be found at <http://unfccc.int/bodies/awg/items/7398.php>; NGO submissions can be found at [http://unfccc.int/parties\\_observers/ngo/submissions/items/3689.php](http://unfccc.int/parties_observers/ngo/submissions/items/3689.php).

<sup>10</sup> Planning of Work for the Ad-Hoc Working Group on the Durban Platform for Enhanced Action, para. 15 (2012), *available at* <http://unfccc.int/resource/docs/2012/adp1/eng/104.pdf> (incorporated by reference to Doha ADP Decision in para. 6) [hereinafter Doha ADP Workplan].

<sup>11</sup> Doha ADP Decision, *supra* note 8, at para. 5.

<sup>12</sup> Kyoto Protocol CMP Decision 1/CMP.8, Amendment to Kyoto Protocol Pursuant to its Article 3 Paragraph 9 (Doha Amendment), paras. 7-11 (2012) *available at* <http://unfccc.int/resource/docs/2012/cmp8/eng/13a01.pdf>. There are a series of steps to this process including a high-level ministerial discussion on increasing targets in the second commitment period. *Id.*

<sup>13</sup> *Id.* at para. 7.

As both processes unfold, it is important that Parties take into account developments in the 2013-15 review process of the LCA outcome – this link that has not yet been made. In 2010, Parties agreed to periodically review the adequacy of the current long-term global goal,<sup>14</sup> which is essential in ensuring that efforts to raise ambition are based on scientific reality. The 2013-15 review is the first of those reviews. It will be important that early information from the review process feeds into the short-term ambition discussions.

*Long-term Ambition and the Post-2020 Regime:* Efforts to negotiate an agreement for climate action beyond 2020 serve as an opportunity both to increase ambition and to incorporate human rights considerations into the future regime. The work is ongoing under “workstream 1” of the Durban Platform, and is expected to conclude in 2015. (It is also known as the negotiations for a 2015 agreement.)<sup>15</sup> Although the work plan adopted in Doha is less detailed than expected, it provides openings to build on the linkages between climate change and human rights. For instance, as with short-term ambition (discussed above), Parties and observers were invited to address the “application of principles of the Convention to the ADP.”<sup>16</sup> They were also invited to address “experiences and lessons learned from . . . the Convention and other multilateral processes” as well as the “scope . . . of the 2015 agreement.”<sup>17</sup> The views of Parties and observers on these and other related issues will be a useful starting point for discussions on the 2015 agreement.<sup>18</sup> Finally, the UN Secretary General’s plans to convene world leaders in 2014 to ensure that the 2015 agreement is completed on time is an opportunity to gain political momentum for raising ambition.<sup>19</sup>

## II. APPROACHES TO ADDRESS LOSS AND DAMAGE

Over the past several years, it has become apparent that the severe damage and irreversible losses from climate impacts can no longer be avoided. Such impacts on peoples’ lives, livelihoods, property, and culture threaten the human rights of the individuals and communities most vulnerable to but least responsible for climate change. In December 2010, the Parties to the UNFCCC established a two-year work programme on approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change.<sup>20</sup> This issue was front and center in Doha, as Parties presented differing views on how to address – and redress – these irreversible harms.

Despite the urgency required to address this issue, the Parties failed to make critical decisions regarding the form and function of the proposed loss and damage mechanism. The Parties did, however, agree to establish “institutional arrangements, such as an international mechanism, including functions and modalities,”<sup>21</sup> to address loss and damage associated with the impacts of

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<sup>14</sup> Doha LCA Decision, *supra* note 4, at section VII (recalling the mandate from the Cancun Agreements in 2010).

<sup>15</sup> Doha ADP Decision, *supra* note 8, at para. 4; *see also* UNFCCC COP Decision 1/CP.17, paras. 2-4 (2011), available at <http://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf#page=2>.

<sup>16</sup> Doha ADP workplan, *supra* note 10, at para. 13(a).

<sup>17</sup> *Id.* at para. 13(b).

<sup>18</sup> Submissions are listed under “Implementation of all the elements of decision 1/CP.17, (a) Matters related to paragraphs 2 to 6.” *See* footnote 9 for links to the submissions. The submission made on behalf of the Human Rights and Climate Change Working Group is available at <http://unfccc.int/resource/docs/2013/smsn/ngo/303.pdf>.

<sup>19</sup> Doha ADP Decision, *supra* note 8, at para. 8.

<sup>20</sup> Cancun LCA Decision, *supra* note 2, at para. 26.

<sup>21</sup> UNFCCC COP Decision 3/CP.18, Approaches to Address Loss and Damage, para. 9 (2012), available at <http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf>.

climate change in highly vulnerable countries at next year's negotiations to be held in Warsaw, Poland. This mandate does not pre-judge what the "institutional arrangements" will be, but keeps the door open for Parties to establish an international mechanism (as proposed by the Alliance of Small Island States, AOSIS, and others) that would provide compensation for those most vulnerable to unavoidable losses and damages.

This decision represents the UNFCCC's first recognition of a clear need to develop an institution/mechanism to address loss and damage. Over the next year, it will be important to strengthen political support for a formal international mechanism. In addition, it will be critical to identify existing legal obligations of States to compensate those who are impacted by climate change to provide the legal basis for such a mechanism. These efforts will promote and support the development of an international mechanism in the coming years.

### **III. REDUCING EMISSIONS FROM DEFORESTATION AND FOREST DEGRADATION (REDD+)**

Despite considerable momentum on REDD+ in the lead up to Doha, Parties made less progress than expected. REDD+ activities have the potential to significantly affect the rights of indigenous peoples as well as forest-dependent and local communities. At the climate negotiations in Cancun in 2010, Parties adopted seven "safeguards" to be applied to all REDD+ actions. Those safeguards are aimed at preventing or minimizing social and environmental harm, as well as promoting social and environmental benefits.<sup>22</sup> Since Cancun, REDD+ negotiations have focused on how to implement REDD+ at the national level. To ensure that the rights of peoples and communities affected by REDD+ activities are respected, safeguards must be fully integrated into national systems designed to implement and monitor REDD+.

In Doha, Parties discussed several issues related to REDD+ implementation including: finance; measurement, reporting, and verification (MRV); national forest monitoring systems (NFMS); safeguard information systems (SIS); and drivers of deforestation. Although safeguards are implicated in all these issues and vital to ensuring that affected communities are protected when implementing REDD+, there was very little substantive discussion of safeguards in Doha. Further, due to political roadblocks, Parties only reached a final decision on REDD+ finance.<sup>23</sup>

*The REDD+ Finance Decision:* The issue of how REDD+ will be financed is important because it creates incentives that will influence how REDD+ is implemented and the role that safeguards will play in accessing finance. In Doha, the agreement on REDD+ finance was primarily a procedural decision, containing processes and work programmes to continue discussions on how to finance REDD+ activities. Specifically, it included provisions on results-based finance and institutional arrangements.<sup>24</sup>

Results-based finance involves paying for a specific benefit achieved by implementing REDD+ activities (for instance, emissions reductions).<sup>25</sup> This issue was at the heart of the negotiations in Doha. From a rights perspective, how "results" are defined is significant because characterizing results *beyond carbon emissions* can incentivize important social and environmental benefits. These additional benefits are called "non-carbon benefits"<sup>26</sup> and are also referred to as "co-

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<sup>22</sup> Cancun LCA Decision, *supra* note 2, at Annex 1, para. 2.

<sup>23</sup> Doha LCA Decision, *supra* note 4, at section II:C.

<sup>24</sup> *Id.* at paras. 25 and 35.

<sup>25</sup> Negotiations in the LCA were heavily focused on this, with differing views on the definition of results.

<sup>26</sup> See Doha LCA Decision, *supra* note 4, at paras. 29(b), 40.

benefits.” Examples of non-carbon benefits include improvements to local livelihoods, increased biodiversity protection, and more robust forest governance. Promoting such benefits can play an important role in ensuring that the rights of indigenous peoples and local communities are respected.

In Doha, Parties decided to launch a “work programme” to discuss results-based finance in 2013,<sup>27</sup> which includes a mandate to address “ways to incentivize non-carbon benefits.”<sup>28</sup> Parties also requested that the Subsidiary Body for Scientific and Technological Advice (SBSTA) work on the “methodological” issues related to non-carbon benefits in implementing REDD+ activities.<sup>29</sup> These mandates are significant because they provide space to seriously examine the issue of non-carbon benefits and how financing can be guided to promote rights in REDD+ countries.

Parties also considered the role of international institutions in financing REDD+. While they did not come to a decision on it, they requested SBSTA to consider “existing institutional arrangements or potential governance alternatives including a body, a board or a committee.”<sup>30</sup> At present, there are a number of institutions that channel funding for REDD+ and some Parties proposed a new centralized structure for coordinating international finance. However, this proposal has serious implications for how finance will be governed, the role of the current safeguards, and the status of observers in a new body to coordinate funding. For example, it is unclear what status a new body would have in relation to existing REDD+ initiatives (e.g. FCPF, UN-REDD<sup>31</sup>), which have their own governance structures and processes for implementing safeguards. Similarly, it is unclear what governance relationship would exist between a new body and the Green Climate Fund (GCF) Board, if REDD+ funds flow through the GCF. Given the hard-fought battles to incorporate safeguards in existing financial institutions and the time involved in structuring new bodies, efforts to develop an alternative structure could be risky. Earlier this spring, Parties and observers provided comments on aspects of the REDD+ finance decision, which will be informative in shaping the work on REDD+ finance.<sup>32</sup>

*Other Outstanding Issues:* Although Parties expected to adopt decisions on MRV and national forest monitoring, efforts to finalize these decisions were hindered by a major political disagreement between Norway and Brazil over the extent to which REDD+ actions should be internationally *verified*. It is essential that countries develop robust systems for MRV and forest monitoring. Additionally, from a rights perspective, those systems should be linked with safeguard information systems in order to promote greater accountability at the national level. Safeguard information systems are a national-level tool for demonstrating that safeguards are being implemented. In 2011, Parties adopted guidance for safeguard information systems, and were supposed to consider the need for additional guidance in 2012. However, in Doha, Parties did not focus on this agenda item. They also did not delve into the issue of drivers of

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<sup>27</sup> *Id.* at para. 25.

<sup>28</sup> *Id.* at para. 29(b).

<sup>29</sup> *Id.* at para. para 40.

<sup>30</sup> *Id.* at para. 35.

<sup>31</sup> See Forest Carbon Partnership Facility, <http://www.forestcarbonpartnership.org/>; UN-REDD Programme, <http://www.un-redd.org/>.

<sup>32</sup> Submissions are listed under “Views on matters referred to in decision 1/CP.18, paragraphs 34 and 35: relating to coordination of support for the implementation of REDD+ activities.” Submissions from Parties can be found at [http://unfccc.int/documentation/submissions\\_from\\_parties/items/5901.php](http://unfccc.int/documentation/submissions_from_parties/items/5901.php); submissions from observers can be found at [http://unfccc.int/parties\\_observers/ngo/submissions/items/3689.php](http://unfccc.int/parties_observers/ngo/submissions/items/3689.php).

deforestation. For these reasons, the aforementioned issues have been postponed until 2013 for further discussion in SBSTA. While this delay is not ideal, it provides additional time to build support for further integrating safeguards in national systems for implementation.

#### IV. CLEAN DEVELOPMENT MECHANISM (CDM)

The Clean Development Mechanism (CDM) is one of the three market-based mechanisms established under the Kyoto Protocol. The CDM allows developed countries – specifically those included in Annex B to the Kyoto Protocol – to reduce their overall emissions more cost-effectively in developing countries than at home.<sup>33</sup> Although the mechanism is supposed to promote *sustainable* development, the CDM has failed to safeguard the rights of peoples and communities affected by CDM projects since its inception.<sup>34</sup> In December 2009, Parties requested the CDM Executive Board (EB) to establish, in consultation with stakeholders, procedures for “considering appeals that are brought by stakeholders directly involved, defined in a conservative manner, in the design, approval or implementation of clean development mechanism project activities or proposed clean development mechanism project activities.”<sup>35</sup> This mandate is a major development because there is currently no means of recourse for those adversely affected by CDM projects.

Because the EB determined it was not the appropriate body to establish the procedure, the CMP mandated the Subsidiary Body for Implementation (SBI) to develop the procedures, mechanisms, and institutional arrangements to allow for appeals against EB decisions. At its 36th session (June, 2012), SBI made progress on some of the design elements of the appeals procedures, and agreed to continue its work at its 37th session in Doha.<sup>36</sup> However, the Parties remained polarized on key issues, particularly regarding the definition of stakeholders (i.e. who has standing to appeal) and the scope of appeal (i.e. whether approved decisions will be subject to appeal, as many Parties want to limit the scope to rejected decisions only). As a result, these negotiations have not yet concluded, and the text will be forwarded to the next SBI session.

In addition, as in previous sessions, the Parties revisited the need for more detailed guidance on local consultation processes in the CDM. However, in the last negotiating session on this issue, previously-included language calling for more detailed guidance at the international level was removed from the text. The final decision merely “[e]ncourages Parties to share their

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<sup>33</sup> Once a project is registered under the CDM, then the CDM's governing body – the Executive Board – issues certified emission reductions, which a developed country can purchase and apply towards its emissions target.

<sup>34</sup> See e.g., International Rivers, CDM Comments, <http://www.internationalrivers.org/taxonomy/term/1025> (last visited Mar. 22, 2013) (commenting on hydropower projects, including Stung Tatay (Cambodia); Panan (India); Santo Antônio (Brazil); Jirau (Brazil); Teles Pires (Brazil); Kamchay (Cambodia) Marañon (Peru); Nam Ngum 5 (Lao PDR); Yunnan Gongguoqiao (China); Barro Blanco (Panama); Bonyic (Panama)).

<sup>35</sup> Kyoto Protocol CMP Decision 2/CMP.5, Further Guidance Relating to the Clean Development Mechanism, para. 42 (2009), available at <http://unfccc.int/resource/docs/2009/cmp5/eng/21a01.pdf>. Although the EB determined it was not the appropriate body to establish such procedures, it made several recommendations in its 2010 annual report. Report of the Executive Body to the CDM of the Kyoto Protocol, FCCC/KP/CMP/2010/10 (2010), available at <http://unfccc.int/resource/docs/2010/cmp6/eng/10.pdf>.

<sup>36</sup> Report of the Subsidiary Body for Implementation on its thirty-sixth session, held in Bonn from 14 to 25 May 2012, U.N. Doc. FCCC/SBI/2012/15/Add.2, available at <http://unfccc.int/resource/docs/2012/sbi/eng/15a02.pdf>.

experiences in relation to local stakeholder consultation processes,” but does not call for further guidance or criteria on how project developers should conduct local consultations.<sup>37</sup>

In the coming year, civil society needs to continue pushing for an institutional safeguards system – including a more inclusive appeals procedure – that effectively prevents social and environmental harm and promotes sustainable development in the CDM. Considering that the CDM is likely to serve as a blueprint for other market-based mechanisms, promoting safeguards in this context is strategic. In March 2013, Parties and observers provided comments on possible changes to the CDM’s modalities and procedures.<sup>38</sup>

## V. PUBLIC PARTICIPATION

Acknowledging the critical role of public participation and transparency in decision-making processes, Article 6 of the UNFCCC calls on governments to educate, empower, and engage the public on policies relating to climate change. In Doha, the Parties adopted the eight-year Doha work programme on Article 6.<sup>39</sup> The work programme promotes the engagement of all stakeholders in the implementation of Article 6 commitments, and recommends activities to be undertaken at the national level. Although the primary focus of the previous work programme was on education, training, and public awareness, the decision adopting the Doha work programme reflects a growing recognition of the need for enhanced public participation and access to information at the national level.<sup>40</sup>

Most notably, however, the decision recommends that Parties should “[s]eek input and public participation, including participation by youth, women, civil society organizations and other groups, in the formulation and implementation of efforts to address climate change, and also in relation to the preparation of national communications, and encourage the involvement and participation of representatives of all stakeholders and major groups in the climate change negotiation process.”<sup>41</sup> Thus, while the focus of Article 6 is on actions taken at the national level, this recommendation identifies the link between national and international efforts. It also encourages countries to promote public participation in national reporting to the UNFCCC and other negotiation processes.

Looking ahead, the SBI will be hosting an annual in-session dialogue on Article 6, which provides an opportunity for all stakeholders, including civil society, to assess how and whether countries are meeting their Article 6 commitments.

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<sup>37</sup> Kyoto Protocol CMP Decision 5/CMP.8, Guidance Relating to Clean Development Mechanism, para. 29 (2012), available at <http://unfccc.int/resource/docs/2012/cmp8/eng/13a02.pdf>.

<sup>38</sup> Comments provided by the Human Rights and Climate Change Working Group as can be found at <http://carbonmarketwatch.org/wp-content/uploads/2013/03/Human-Rights-Climate-Change-WG-Submission-on-CDM-Modalities-Procedur....pdf>.

<sup>39</sup> UNFCCC COP Decision 15/CP.18, Doha Work Programme on Article 6 of the Convention (2012), available at <http://unfccc.int/resource/docs/2012/cop18/eng/08a02.pdf>.

<sup>40</sup> For example, the preamble states that “public participation and access to information are crucial in order to develop and implement effective policies, as well as to engage all stakeholders actively in the implementation of these policies. . . .” *Id.*

<sup>41</sup> *Id.* at para. 22(i).



## VI. GENDER ISSUES

Given that climate change has a disproportionate impact on women, climate change is a gender and human rights issue that must be addressed in the UNFCCC framework. Women constitute the “majority of the world’s poor and are more dependent for their livelihood on natural resources that are threatened by climate change.”<sup>42</sup> Further, women are “often excluded from decision-making on access to and the use of land and resources critical to their livelihoods.”<sup>43</sup> In light of women’s vulnerability to climate change and related decision-making, gender issues were a focal point of discussion at the Doha climate talks. As a result, Parties adopted a decision on promoting gender balance and improving participation in the UNFCCC and other relevant bodies.<sup>44</sup>

Although this decision puts gender and climate squarely on the COP agenda, the Parties failed to fully acknowledge the need for gender equality when addressing climate change. Specifically, Parties called for “gender balance” rather than “gender equality”, thus opting to use weaker language that doesn’t adequately protect the rights of women to participate in climate change actions and related decision-making processes.<sup>45</sup> Moving forward, the UNFCCC Secretariat must take several actions to mainstream gender into the negotiations by: including gender as a standing agenda item; developing a session on gender and climate change at COP19; and collecting and reporting on sex-disaggregated data.<sup>46</sup> Although some recognize the gender decision as a landmark achievement, others claim that the outcome falls “far short of the substantial gender equality needed to accomplish fundamental changes in human behaviour.”<sup>47</sup>

## VII. CONCLUSION

Overall, the outcomes from Doha demonstrate, yet again, a failure of political will to take the urgent action that is needed to solve the climate crisis. In addition, human rights are not directly reflected in the Doha decisions despite the fact that the issues discussed and the decisions made impact the lives and livelihoods of those most vulnerable to climate change. Ongoing work to finalize operational elements of the 2013-20 climate regime still provide opportunities to integrate human rights considerations into key processes and mechanisms. Furthermore, negotiations for addressing climate change beyond 2020 provide opportunities to integrate human rights more meaningfully into the future regime. Nevertheless, the success of any process depends on the political will of the governments participating in it. Therefore, while the UNFCCC remains an important venue for climate policy, we must also explore other avenues for mobilizing countries to act and to consider human rights in taking such actions.

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<sup>42</sup> UN Women, *Fact Sheet: Women, Gender Equality and Climate Change* (2009), available at [http://www.un.org/womenwatch/feature/climate\\_change/downloads/Women\\_and\\_Climate\\_Change\\_Factsheet.pdf](http://www.un.org/womenwatch/feature/climate_change/downloads/Women_and_Climate_Change_Factsheet.pdf)

<sup>43</sup> *Id.*

<sup>44</sup> *Promoting gender balance and improving the participation of women in UNFCCC negotiations and in the representation of Parties in bodies established pursuant to the Convention or the Kyoto Protocol*, available at <http://unfccc.int/resource/docs/2012/cop18/eng/08a03.pdf>.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> GenderCC–Women for Climate Justice, *Press Statement issued 8 December 2012*, available at [http://www.gendercc.net/fileadmin/inhalte/Dokumente/UNFCCC\\_conferences/COP18/Press\\_statement\\_Doha\\_GenderCC.pdf](http://www.gendercc.net/fileadmin/inhalte/Dokumente/UNFCCC_conferences/COP18/Press_statement_Doha_GenderCC.pdf).