



## CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

25 February 2009

### Climate Change and Human Rights: A Practical Way Forward

Climate change is already interfering with the human rights of individuals and vulnerable communities, and is an enormous threat to human rights everywhere. States have obligations under human rights law to protect against harm to human rights caused by climate change, through taking effective mitigation and adaptation measures. In addition, human rights law requires States to ensure that their responses to climate change – including their mitigation and adaptation measures -- do not themselves violate human rights. For example, States must address climate change through transparent processes open to participation by all affected communities, including indigenous peoples and forest dwellers.

One of the obligations of States under human rights law is to cooperate internationally to address threats to human rights. This duty is of utmost importance when addressing climate change, which can only be effectively dealt with on a global basis. To fulfill their duty to cooperate, States must reach and implement an agreement that adequately protects against the harms to human rights resulting from climate change.

The Office of the High Commissioner on Human Rights (OHCHR) has conducted a study on the substantive relationship between human rights and climate change. The OHCHR's report will be discussed at the March 2009 meeting of the Human Rights Council (HRC). This leads to the question: what practical steps can be taken so that human rights be protected in the context of climate change?

Listed below are pragmatic measures that could be taken within the international climate change and human rights legal regimes to address the human rights implications of climate change, that is, to protect human rights while tackling climate change.

Other regimes and institutions should also be involved in this effort, including: the International Labour Organization, e.g. in connection with ILO Convention 169; the United Nations Environment Programme (UNEP), e.g. with respect to REDD financing and Montevideo IV; the World Bank, e.g. with respect to REDD and adaptation funding; NGOs and foundations, with respect to their climate change-related activities that affect individuals or local communities; and business enterprises, e.g. when they cooperate in any of the above activities or initiate climate change-related activities. The principal efforts and leadership, however, should come from the two most directly involved regimes – climate change and human rights.

The measures outlined below were discussed and refined at a January 2009 experts meeting in Geneva. These practical measures would encourage, facilitate and supplement the national actions necessary to protect and respect human rights within the context of climate change.

#### Human rights regime

- Expertise and a focal point on climate change could be established at the OHCHR.
  - This has already been done in practice and could now be officially announced.
- Existing special rapporteurs and other mandate holders could consider the impacts of climate change on their mandates.
  - The HRC has already drawn the attention of the Special Rapporteurs on Food and Housing to the threat to those rights posed by climate change.
  - The HRC could request other mandate holders to consider the impacts of climate change on the subject of their mandate. They may already examine such impacts without a request from the HRC; but a specific request from the HRC would help with resources and reporting.

- The HRC could request the Special Rapporteurs on Food and Housing and the Independent Expert on Drinking Water and Sanitation to prepare a joint report by September 2009 on the impacts of climate change on their mandates.
- The HRC could hold a panel discussion on human rights and climate change at its September 2009 meeting, or it could convene a special session on the topic.
- The HRC could request the High Commissioner to attend the climate change negotiations in Bonn in June and the COP 15 in Copenhagen in December, 2009.
- The HRC could create a new special procedure on climate change at either its 2009 or 2010 session.
- The HRC could request that mandate holders elaborate guidelines recognizing and effectuating the linkage between climate change and human rights.
- The HRC could specifically cover human rights and climate change in its Universal Periodic Reviews.
- Treaty bodies (especially the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee on the Rights of the Child) could consider the impacts of climate change on the rights covered by their treaty, e.g. by requiring that the human rights implications of climate change be covered in country reports, inquiring about climate change (e.g., on the basis of parallel reports submitted by civil society addressing climate change and human rights), issuing Concluding Observations, a General Comment or Statement, or holding joint meetings to discuss human rights and climate change.
- Training programs could be held regarding human rights and climate change for personnel within the human rights system, including mandate holders, OHCHR staff, and members of treaty bodies.

#### Climate change regime

- Expertise and a focal point on human rights could be established at the UNFCCC secretariat to facilitate coordination between the different UN agencies and to serve as a contact point for the outside.
  - This has already been done in practice with respect to adaptation and could now be officially announced.
- A mechanism to provide greater participation of indigenous peoples and local communities in negotiations could be adopted, including explicitly with respect to REDD, supported by funding to facilitate participation of indigenous and local leaders.
- States must reach an agreement that adequately protects against the harms to human rights resulting from climate change and potential harms to human rights from response measures. To ensure protection, the agreed outcome (whatever form it takes) of COP 15 could include:
  - A statement recognizing that climate change affects the realization of human rights,
  - The principle that States and other entities must observe human rights in their mitigation and adaptation measures, including those with respect to REDD, technology transfer, capacity building and financing activities, and
  - The creation of a new subsidiary body to study, monitor, report on, and provide guidance regarding the human dimension of climate change, including human rights.
- The Subsidiary Body for Scientific and Technical Advice (SBSTA), the Subsidiary Body for Implementation (SBI), or the Clean Development Mechanism Executive Board could produce technical papers that identify existing or potential problems relating to climate change and human rights.
- The UNFCCC secretariat could be requested to produce a paper, or organize a workshop or an expert meeting on the linkages between climate change and human rights as they relate to the work of the UNFCCC.
- Training programs could be held regarding human rights and climate change for personnel within the climate change regime.