A NEW CLIMATE CHANGE AGREEMENT MUST INCLUDE HUMAN RIGHTS PROTECTIONS FOR ALL


As independent experts of the Human Rights Council, we call on the State Parties to the United Nations Framework Convention on Climate Change (UNFCCC) to ensure full coherence between their solemn human rights obligations and their efforts to address climate change, one of the greatest human rights challenges of our time.

We do this on the occasion of the sixth part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) to be held in Bonn on 20-25 October 2014. The need for urgency in addressing this topic is underscored by the approaching deadlines for the climate negotiations to reach a concrete solution. Following the ADP meeting in Bonn, the Conference of the Parties to the UNFCCC meets this December in Lima (COP 20), with the goal of adopting a new legal instrument at its next meeting, in Paris in December 2015 (COP 21).

We urge the State Parties to the UNFCCC to recognise the adverse effects of climate change on the enjoyment of human rights, and to adopt urgent and ambitious mitigation and adaptation measures to prevent further harm. We call on the State Parties to include language in the 2015 climate agreement that provides that the Parties shall, in all climate change related actions, respect, protect, promote, and fulfil human rights for all. And we urge the State Parties at COP 20 in Lima to launch a work program to ensure that human rights are integrated into all aspects of climate actions.

A safe, clean, healthy and sustainable environment is indispensable to the full enjoyment of human rights, including rights to life, health, food, water and housing, among many others. Indeed, the Human Rights Council has emphasised that “environmental damage can have negative implications, both direct and indirect, for the effective enjoyment of all human rights.”¹ The most recent report of the Intergovernmental Panel on Climate Change (IPCC) brings into sharp focus the grave harm that climate change is already causing, and will continue to cause, to the environment on which we all depend. There can no longer be any doubt that climate

change interferes with the enjoyment of human rights recognised and protected by international law.

At the request of the Human Rights Council, the Office of the High Commissioner for Human Rights (OHCHR) presented a report in 2009 that detailed the adverse impacts of climate change on the full enjoyment of a spectrum of human rights, including the rights to life, adequate food, safe drinking water and sanitation, the highest attainable standard of health, adequate housing, and self-determination of peoples living in small island States. Since then, the Council has regularly called attention to the negative implications of climate change for human rights, noting that the effects “will be felt most acutely by those segments of the population that are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability.”

Many of our own reports bear testimony to the impacts of climate change on the full enjoyment of human rights, including rights to an adequate standard of living, food, housing, health, and water and sanitation. The reports have also identified disproportionate effects of climate change on the vulnerable, on those living in extreme poverty, on migrants and the displaced, on women, on children, on indigenous peoples and specific ways of life.

We want to draw special attention to the unequal impacts of climate change on the enjoyment of human rights worldwide. The 2009 OHCHR report pointed out that of the 262 million people affected by climate disasters annually from 2000 to 2004, over 98 per cent lived in developing countries. In those developing countries, but even in the developed world, it will be those living in poverty who will suffer the gravest harm from climate change. As Dr. Rajendra Pachauri, the chairperson of the IPCC, has said, “It is the poorest of the poor in the world, and this includes poor people even in prosperous societies, who are going to be the worst hit.” In the words of Jim Yong Kim, the president of the World Bank, “the poor will be hit first and hardest. This means that the people who are least responsible for raising the Earth’s temperature may suffer the gravest consequences from global warming. That is fundamentally unfair.”

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2 A/HRC/10/61.
6 See Working Group II Contribution to the Fifth Assessment Report of the IPCC, Climate Change 2014: Impacts, Adaptation, and Vulnerability, Summary for Policy Makers (2014), p. 6 (stating with “high confidence” that “climate-change related hazards exacerbate other stressors, often with negative outcomes for livelihoods, especially for people living in poverty”).
All of the State Parties to the UNFCCC have committed to respect and protect human rights. On this basis, they have obligations to adopt the mitigation measures necessary to reduce global emissions so as to hold the increase in global temperature below levels that would cause widespread harm to the enjoyment of human rights. It now seems clear that to avoid such harm, it is necessary to keep the increase in temperature well below two degrees Celsius. We must emphasise, however, that even such an increase will result – and is already resulting – in harm to the human rights of the most vulnerable, and that States also have obligations to adopt effective adaptation measures to protect against this harm and to provide remedies for it.

In addition, States must ensure that all of the actions they take to address climate change are fully in accordance with all of their human rights obligations. As the Human Rights Council affirmed in its Resolution 10/4, “human rights obligations and commitments 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.” 9 Citing that Resolution, the State Parties to the UNFCCC have already agreed, in the 2010 outcome document adopted by COP16 in Cancun, Mexico, “that Parties should, in all climate change-related actions, fully respect human rights.” 10

Respecting human rights in the formulation and implementation of climate policy requires, among other things, that the State Parties meet their duties to provide access to information and facilitate informed public participation in decision making, especially the participation of those most affected by climate change and by the actions taken to address it. The principle of free, prior and informed consent of indigenous peoples must be respected. Particular care must be taken to anticipate, prevent and remedy negative effects on vulnerable groups, which may include indigenous peoples, minorities, persons living in poverty, migrants and displaced persons, older persons, persons with disabilities, and children, as well as to empower and protect the rights of women. Furthermore, the State has the responsibility to ensure the protection of human rights defenders against any violence, threats, retaliation, discrimination, pressure or any other arbitrary action as a consequence of their legitimate activities, including in relation to climate change.

The responsibilities of the State Parties in all of the above respects should not be viewed as stopping at their borders. Climate change is a global threat to human rights that requires global cooperation to solve, in accordance with the principle of international cooperation firmly entrenched in the UN Charter, the Universal Declaration of Human Rights, and a host of human rights treaties and declarations. States must work together in good faith to protect the environment that supports and enables the full enjoyment of our human rights.

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10 FCCC/CP/2010/7/Add.1, Report of the Conference of the Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010, Addendum, Part Two: Action taken by the Conference of the Parties at its sixteenth session.
Mr. Michael K. Addo,
Working Group on the issue of human rights and transnational corporations and other business enterprises

Ms. Catarina de Albuquerque,
Special Rapporteur on the human right to safe drinking water and sanitation

Mr. Philip Alston, Special Rapporteur on extreme poverty and human rights

Juan Pablo Bohoslavsky,
Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

Mr. Chaloka Beyani,
Special Rapporteur on the human rights of internally displaced persons

Ms. Urmila Bhoola,
Special Rapporteur on contemporary forms of slavery, including its causes and consequences
Mr. Heiner Bielefeldt,
Special Rapporteur on freedom of religion or belief

Ms. Maud de Boer-Buquicchio,
Special Rapporteur on the sale of children, child prostitution and child pornography

Mr. François Crépeau,
Special Rapporteur on the human rights of migrants

Ms. Virginia Dandan,
Independent Expert on human rights and international solidarity

Ms. Hilal Elver,
Special Rapporteur on the right to food

Ms. Leilani Farha
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and to the right of non-discrimination in this context

Mr. Michel Forst,
Special Rapporteur on the situation of human rights defenders
Ms. Rita Izsák,
Special Rapporteur on minority issues

Mr. David Kaye,
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Ms. Gabriela Knaul, Special Rapporteur on the independence of judges and lawyers

Mr. John H. Knox,
Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment

Ms. Rashida Manjoo,
Special Rapporteur on violence against women, its causes and consequences

Ms. Mireille Fanon Mendes-France,
Working Group of experts on people of African descent
Mr. Juan Ernesto Mendez,
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Mr. Dainius Pūras,
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Ms. Frances Raday,
Working Group on the issue of discrimination against women in law and in practice

Ms Farida Shaheed,
Special Rapporteur in the field of cultural rights

Ms. Victoria Lucia Tauli-Corpuz,
Special Rapporteur on the rights of indigenous peoples
Mr. Baskut Tuncak,
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

Mr. Makarim Wibisono,
Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Mr. Alfred de Zayas,
Independent expert on the promotion of a democratic and equitable international order