



General Assembly

Distr.: General
7 June 2016

English only

Human Rights Council

Thirty-second session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by International-Lawyers.Org, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-09251(E)



* 1 6 0 9 2 5 1 *

Please recycle



Human Rights and Climate Change

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Universal Declaration of Human Rights, Article 28

Five Key Messages

- Climate change is amongst the greatest threats to human life and well-being in human history;
- Climate change is already causing human rights violations in regions that are most vulnerable to the adverse effects of climate change;
- Human rights reinforces the principle of equity and common but differentiated responsibilities (CBDR) enshrined in the United Nations Framework Convention on Climate Change;
- The exacerbation of inequalities resulting from climate change and inequitable responses put the human rights of millions of poor people at risk;
- Victims of climate change have a right to an adequate and effective remedy from those who benefited most from the over-exploitation of the Earth's atmosphere.

Rights at Risk

The adverse effects of climate change—including floods, droughts, desertification, sea-level rise, water salination, changing weather patterns, extreme weather events and increasing disease burdens—are already causing human rights violations across the globe. At stake are, amongst others, the rights to life, health, housing, food, water, culture, an adequate standard of living, development, self-determination and the right not to be subjected to inhumane treatment. Climate change is also exacerbating poverty and global inequalities, posing an additional constraint on the capacity of developing States to realize their peoples' social, economic and cultural rights and the right to development.

If urgent action is not taken to stop climate change and implement fair and equitable burden-sharing mechanisms, the rights of hundreds of millions of people will be interfered with or violated as a result of climate change.

Extraterritorial Obligations

All States must respect, ensure and promote human rights, with particular attention to the rights of those who are vulnerable. All States have legal obligations to make sure that activities under their jurisdiction, including activities carried out by multinational corporations in other countries, do not result in human rights violations within or outside their borders. In practice this requires, amongst other things, that States historically responsible for climate change do not permit further exploitation of fossil fuels within their territories.

States also have a duty to cooperate with each other to ensure the realization of human rights everywhere. To this end, the United Nations Framework Convention on Climate Change (UNFCCC) must be better implemented so that climate change is addressed without perpetuating historical inequities.

INTLawyers is concerned that the Paris Agreement adopted at the 21st Conference of the Parties to the UNFCCC (COP21) lacks in ambition and does little to operationalize the principle of common but differentiated responsibilities and respective capabilities. We stress that this weak treaty in no way replaces or affects the existing legal frameworks of the UNFCCC and international human rights law, which require no less than States' maximum efforts to protect individuals and peoples everywhere, in a non-discriminate manner, against the effects of dangerous climate change.

The Right to a Remedy

The right to a remedy for human rights violations is at the heart of a rights-based agenda. Individuals, communities and indigenous peoples whose rights are adversely affected by climate change are entitled to a remedy that is adequate and effective.

To enable redress for human rights violations caused by the over-exploitation of the global atmosphere, it is crucial that the States that are historically responsible for climate change provide full reparations for climate damages that occur within and outside their territories. This would involve regulating private actors to unlock the resources for financial compensation of climate victims in developing States.

Key Issues in the Wake of COP21

Realizing rights requires a substantive human rights and climate agenda, including:

- **Achievement of the long-term temperature goal** of limiting global warming to 1.5°C, in accordance with States' obligations to make maximum efforts to prevent further climate change-induced human rights violations.
- **Equitable burden sharing** through operationalizing the principle of common but differentiated responsibilities and respective capabilities and realizing the right to sustainable development. Developed countries must comply with their obligations to provide finance, technology transfer and capacity building to ensure the realization of this right.
- **Mitigation** should be science-based and in accordance with the long-term temperature goal of keeping warming below 1.5°C. Mitigation in developing countries must be supported by technology and finance from developed countries to combat climate change while realizing human rights.
- **Adaptation** must be effective in protecting the rights of all people everywhere against the adverse effects of climate change, particularly those who are vulnerable. Adaptation efforts and programmes must also respect human rights, including the rights of indigenous peoples, women, children, the elderly and persons with disabilities.
- **Technology transfer** must be environmentally and socially sound, and occur on scales consistent with the global goal. It must enable all peoples and countries to realize human rights progressively without damaging the planet.
- **Finance** must be new and additional, adequate and predictable to enable all governments to protect, respect and fulfill the rights of their people. The \$100 billion annually pledged by developed countries is dangerously insufficient.
- **Loss and damage** must be permanently and adequately addressed through the Warsaw International Mechanism on Loss and Damage (WIM). Developed States should provide sufficient finance to enable developing States to restore the enjoyment of human rights after climate events and, where possible, prevent human rights violations through resilience building, risk transfer and rehabilitation.
- **Sectoral discussions** on forests, agriculture and other areas should adopt rights-based approaches that integrate adaptation and mitigation along with sustainable development and human rights objectives. They must include adequate safeguards for protection of the rights of affected communities, including a complaint mechanism for the provision of redress for potential harm.
- **Carbon markets** – existing and proposed – should be re-examined from a rights-based perspective. Proposals, for example, to sell the rights of the poorest farmers to corporations are leading polluters are inconsistent with a rights-based approach.

On these and other issues, a rights-based agenda can help ensure rights are realized in each area of the negotiations, and that the pieces of the puzzle together connect into a global response capable of addressing climate change and realizing all human rights of all people.

INTLawyers Calls Upon the Human Rights Council

To take up its significant responsibility to promote and protect human rights in light of climate change through concrete and meaningful action starting with the establishment of the mandate of a Special Rapporteur on human rights and climate change.

INTLawyers' also offers the attached proposed elements for a draft resolution by the Council that would show its resolve to protect human rights from climate change and urges the Council to take them into account at its 32nd Regular Session.

Elements of a Council resolution on human rights and climate change

The Human Rights Council,

[PP1] *Guided by* the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant of Economic, Social and Cultural Rights and other relevant human rights instruments;

[PP2] *Reaffirming* the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the objectives and principles thereof, particularly the principle of common but differentiated responsibilities and respective capabilities;

[PP3] *Reaffirming* also the Rio Declaration on Environment and Development, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Johannesburg Declaration on Sustainable Development, and the Plan of Implementation of the World Summit on Sustainable Development;

[PP4] *Recalling* its resolutions 7/23 of 28 March 2008, 10/4 of 25 March 2009, 18/22 of 17 October 2011, 26/33 on 23 June 2014, and on human rights and climate change, which recognize the significant impacts of the adverse effects of climate change on the effective enjoyment of human rights;

[PP5] *Recognizing* that the historic overuse of atmospheric space by developed countries has additional negative impacts on the enjoyment of human rights in developing countries, as well as on the right to development;

[PP6] *Noting* that States' legal duty to cooperate internationally to achieve universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion is of renewed importance in the face of the impacts of climate change on human rights;

1. *Stresses* the primary responsibility of States to protect all its citizens under its jurisdiction as well as in the broader international community against the adverse effects of climate change on human rights;

2. *Decides* to create the mandate of Special Rapporteur on human rights and climate change for a period of three years, who shall report on the impact of climate change and the historic overuse of the atmospheric space on the enjoyment of all human rights with an emphasis on the right to development and requests the Special Rapporteur to submit a report to the Council for consideration at its thirty-fourth session and requests that the Office of the High Commissioner for Human Rights to provide the Special Rapporteur with all necessary assistance to discharge the mandate fully.