

‘Climate Change, Food Security and Human Rights’

Side-event Many Strong Voices, 1 December, 2010

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Introduction

It is easy to be sceptical about the added value of human rights in the context of climate change. Climate change seems already too complex to deal with- legally, politically, economically and scientifically. Human rights add yet another dimension to climate change: a human dimension, based on the idea that each human life is equally valuable.

This means that human rights require us, before addressing any other dimension, to listen to and recognize the many voices of those who experience the reality of climate change on a day-to-day basis. This is exactly what initiatives like Many Strong Voices help us to do.

And naturally, it's people who are directly affected who tell us how urgently real action is needed. Patricia, Kirt and Ambassador Jumeau spoke about human rights impacts that are not happening tomorrow, but right now as we are speaking.

There are thousands of indigenous and local communities from all around the world who insist that to protect our planet and indeed the credibility of our human rights system, we need science-based and equitable climate action rather than action based on populism or the lowest common denominator.

Human rights concerns

Science confirms your concerns. Global greenhouse gas emissions continue to rise. There is only a small chance that we can keep the rise in average global temperatures below two degrees – even in the unlikely scenario that we would start making major cuts today. Two degrees already means that human rights will be affected or violated: people in the Arctic and several small islands will need to relocate and give up their traditional ways of living; people will be killed by floods, storms and other disasters; droughts and crop failures will cost lives. Again, part of these impacts are already happening today.

Olivier de Schutter, the UN Special Rapporteur on the Right to Food, reminded us on Monday that the right to food of millions of people depends on our ability to address

climate change through international cooperation. He reiterated that yields from rain-fed agriculture could be cut by up to half between 2000 and 2020, while arid and semi-arid areas could grow by 60 million to 90 million hectares. This could put 600 million more people at risk of hunger.

Of course in SIDS and in the Arctic food security issues arise much sooner than in many other areas of the world. And like in no other place, food security here depends very much on mitigation actions elsewhere.

To find out what international human rights law has to say about this, it is worth looking at states' human rights obligations on specific rights. On the right to food there is particularly clear guidance on what human rights law requires states to do, as a minimum, in order to comply with these legal obligations.

The right to food in international law

The obligations that flow from the human right to food are well-established under international law.

In 1948, the Universal Declaration of Human Rights recognized the right to food as a human right as part of the right to an adequate standard of living. The right to food was then incorporated in the International Covenant on Economic, Social and Cultural Rights. This legally binding treaty is ratified by 156 states. The Committee on Economic, Social and Cultural Rights monitors compliance with the Covenant.

The Committee issued a so-called General Comment on the right to food in 1999, which is still the most authoritative interpretation of the right to food:

"The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement".

So what does this require states to do?

According to the General Comment No. 12, the right to food implies three types of specific obligations - the obligations to respect, to protect and to fulfill:

- The obligation to respect requires States parties not to take any measures that result in preventing existing access to adequate food.
- The obligation to protect requires States to take positive measures, including legislative measures, to ensure that enterprises or individuals do not deprive people of their access to adequate food.

- The obligation to fulfill means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security, or provide access to adequate food directly if necessary.

It is widely assumed that at least the obligations to respect and protect also apply extraterritorially. Under the Charter of the United States also have a duty to cooperate to realize human rights, which is of course crucial in the context of climate change.

How do such obligations translate in the UNFCCC context?

There is little jurisprudence on this question. But common sense tells us, to some extent, how these standards may be interpreted to be of relevance in specific issues in the negotiations.

For example, in the context of the Ad-Hoc Working Group on Long-Term Cooperative Action established under the Bali Action Plan, there is a need for a shared vision and global goal that limits warming to levels that are safe. Without such a goal human rights violations are likely to occur on scales unprecedented in human history.

It also requires equitable burden sharing through a paradigm that distributes the benefits and burdens fairly. It requires sharing of technology and transfer of financial resources to enable all peoples and countries to realize human rights progressively without damaging the planet.

On adaptation, human rights help to identify what kind of adaptive actions are needed to protect the most vulnerable, and may provide thresholds for funding for these actions through international cooperation.

Public participation is also crucial, and so is the right to information. These rights help governments as well as private actors to deal with climate change in a truly informed manner, and to include the voices of those affected in all stages of decision-making.

Including human rights provisions in negotiating texts

These interpretations on what needs to happen from a human rights perspective are common sense. However in specific contexts doubt may arise as to the interpretation of certain provisions. In such contexts it may be useful to add specific references to human rights law.

This is what the Human Rights and Climate Change Working Group has focused its attention on. So what the group has been doing is producing suggestions for human rights language for the texts as these are being negotiated, and inviting delegations to take over these proposals as their own.

Of course, we have been making these proposals while closely watching the whole of the texts. The texts as a whole, as well individual sections must protect human rights in practice.

Adding references to human rights law may clarify the objective of consistency in international law. For example, referring to human rights in the Shared Vision part of the LCA text can clarify that the ultimate 'dangerous climate change' we are trying to prevent is the kind of climate change that puts human rights at risk.

Turning back to food security, such a reference would clarify that allowing a level of climate change that interferes with existing access to adequate food contradicts human rights law as well as Article 2 of the UNFCCC.

Specific references to human rights can also help to ensure that states use human rights standards when implementing mitigation measures. This is particularly important, as there are already examples where mitigation measures affected or violated rights.

There are the well-known examples of biofuels that increase food prices; REDD programmes that interfere with the rights of indigenous peoples and forest dwellers; emission trading that makes development unaffordable for the poor.

If States explicitly state in the text that response measures shall be consistent with existing human rights obligations, this will flag to those working to design and implement response measures that there is another body of law that must be respected.

Another suggestion made by our group is the establishment of a procedure to consider and address complaints of people affected by the implementation of the Convention. Although it is often possible to turn to human rights mechanisms with alleged violations, we think that establishing such a procedure within the UNFCCC framework will create a venue in the heart of 'global climate governance' and make it easier to correct flaws in the new framework if these prove to affect rights.

This way – and this is what causes almost any kind of fuzz in these climate negotiations - changing a few words in text may well have an impact in the real world.

Thank you.