

A decorative graphic consisting of a grid of dots in various shades of gray and red, arranged in a pattern that suggests a world map or a network of connections.

# Human Rights and International Climate Politics

Human Rights into Climate Actions After Paris: Opportunities for the UNFCCC, the Human Rights Institutions and the G-20

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November 2016

- The Marrakesh Climate Conference (COP-22) must integrate human rights considerations across all relevant issues on the agenda. Firstly, the respect and promotion of these obligations should be included in the modalities of the commitment (Nationally Determined Contributions) and review cycles (transparency framework and periodic global stocktake) to promote holistic implementation of the agreement. Secondly, climate decision-makers should be supported by sharing expertise during events organised in the context of the climate negotiations and by leveraging the role of capacity building actions under the Climate Convention.
- The Human Rights Council (HRC) should continue its efforts on climate change and pay attention to implementation of the Paris Agreement. Joint activities of the HRC with climate change bodies should be consolidated. All states must also incorporate the effects of climate change in the review of the 3rd cycle of the Universal Periodic Review which begins in 2017. UN Special Procedures' work on climate change must be supported and a Special Procedure mandated to focus on climate change.
- The G-20 summit in Hamburg under German presidency offers an opportunity to integrate human rights in climate-related work of the Group. While the G-20 is unlikely to address the promotion of human rights in climate action as a specific working area, it should consider how human rights considerations relate to the various issues already on its agenda.



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## List of Abbreviations

<b>APA</b>	Ad-hoc Working Group on the Paris Agreement
<b>CDM</b>	Clean Development Mechanism
<b>COP</b>	Conference of the Parties to the UNFCCC
<b>CVF</b>	Climate Vulnerable Forum
<b>GCAA</b>	Global Climate Action Agenda
<b>HRC</b>	Human Rights Council
<b>INDCs</b>	Intended Nationally Determined Contributions
<b>MRV</b>	Measurement, Reporting and Verification
<b>NDCs</b>	Nationally Determined Contributions
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>PCCB</b>	Paris Committee on Capacity Building
<b>REDD+</b>	Reducing Emissions from Deforestation and forest Degradation
<b>SBI</b>	Subsidiary Body for Implementation
<b>SBSTA</b>	Subsidiary Body for Scientific and Technical Advice
<b>SDM</b>	Sustainable Development Mechanism
<b>UNDRIP</b>	UN Declaration on the Rights of Indigenous Peoples
<b>UNFCCC</b>	UN Framework Convention on Climate Change
<b>UNPFII</b>	United Nations Permanent Forum on Indigenous Issues
<b>UPR</b>	Universal Periodic Review
<b>WIM</b>	Warsaw International Mechanism on Law and Damage

## 1. Introduction

Existing human rights obligations defined in international treaties and under national constitutions apply to all policies and issues under the control of governments. Consequently, all states already have the duty to fulfil their respective human rights obligations when taking climate action. As climate change requires ambitious policies and innovative responses, integrating human rights effectively in climate action requires specific approaches when designing and implementing related policies. Integrating these obligations allows synergies to be enhanced between climate action and human rights, and to prevent potential conflicts.

As the first international agreement under which all countries undertook specific commitments to reduce their emissions, the Paris Agreement was a major diplomatic success. It restructures the work of the international community in the answers it brings to the challenges posed by climate change – including both mitigation and adaptation. In its preamble, the Paris Agreement also contains particularly explicit provisions on how respect for fundamental rights must guide all climate action. It thus accords the most advanced linkage with human rights of any international environmental law instrument.

In this document, we demonstrate how human rights issues can now guide the implementation of this Agreement and what the steps are now needed to achieve this. We begin with a comprehensive review of provisions of the Paris Agreement that relate directly or indirectly to the respect and promotion of human rights.

The work that was done by the United Nations human rights bodies already before the Copenhagen conference in 2009 and during preparation of the Paris Agreement will continue. It is summarised here with suggestions for strengthening the coherence of international institutions action linking these two areas of human rights and climate change.

Upcoming conferences, particularly the UNFCCC COP-22 in Marrakech in November 2016 and the G-20 Summit in Hamburg in July 2017 will be important steps for the effective implementation of the Paris Agreement. These events offer an opportunity to strengthen action to prevent climate change from causing growing and massive violations of human rights while avoiding response policies from causing further harm.

## 2. Human Rights Analysis of the Paris Agreement

### 2.1 Human Rights in the Preamble of the Agreement

The Paris Agreement is the first global environmental treaty to make explicit reference to human rights. Paragraph 11 of its preamble states:

*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.

This builds on and expands the basis of an earlier reference in the cross-cutting section of the Cancun Agreements adopted by the COP-16 in 2010. This decision had already highlighted the need for parties to respect human rights in all climate actions. However, the language of the Paris provision further elaborates on specific aspects of human rights – and specific groups of rights-holders – that are highlighted as particularly relevant in the implementation of the Paris Agreement. Other paragraphs of the preamble also emphasise two related principles: the fundamental priority of safeguarding food security and ending hunger (preamble, para. 9) and the imperatives of a just transition of the workforce and the creation of decent work and quality jobs (preamble, para. 10).

Under international law, provisions contained in the preambles of legally binding instruments are considered an integral part of these instruments and should guide the interpretation of specific commitments contained in the operative provisions. The International Court of Justice, for instance, made numerous references to preambular provisions when interpreting treaties.<sup>1</sup> As a consequence, this paragraph applies to all policy areas addressed in the Paris Agreement.

1. eg., United States Nationals in Morocco case, I.C.J. Reports 1952, pp. 183, 184, 197 and 198 or Gabčíkovo-Nagymaros Project (Hungary/Slovakia), I.C.J. Reports 1997, p. 17.

## 2.2 Relevant Provisions of the Paris Agreement for Human Rights Issues

During the drafting process leading to adoption of the Paris Agreement, some parties proposed to include additional references to human rights in specific sections of the agreement related to the objectives thereof (article 2), to adaptation (article 7), and to capacity building (article 11). Other parties however rejected the inclusion of operative references to human rights out of concern that such references would imply additional obligations or would divert focus away from mitigation action. Consequently, references to human rights were removed from the operative articles of the Paris Agreement before its adoption in December 2015. These proposals were, however, all rejected during final negotiations in Paris. Several operative provisions included in the Paris Agreement are nevertheless highly relevant to the respect and promotion of human rights.

Firstly, the parties agreed to strengthen the level of mitigation ambition. According to the Paris Agreement, temperatures should be kept well below 2°C, with parties pursuing efforts to keep them from rising above 1.5°C above pre-industrial levels. The UNFCCC only indicated that the ultimate objective of this process should be to prevent dangerous anthropogenic climate change without providing a more precise target. The Paris provisions thus constitute a strengthening of the level of global ambition and of the legal nature of this commitment, considering that it is now included in the operative section of a legally-binding instrument. This stronger ambition could help prevent some of the most adverse impacts of climate change, in particular for the most vulnerable. In a 2015 report submitted to the UNFCCC, the UN Special Rapporteurs on Human Rights and the Environment had highlighted that temperature increases higher than 1.5°C above historical levels would lead to a greater risk of human rights infringements.<sup>2</sup> The national mitigation commitments communicated prior to the Paris Conference will, however, not be sufficient to meet the target of keeping temperatures well below 2°C, let alone 1.5°C, thus requiring an urgent increase of ambition.<sup>3</sup>

2. »The Effects of Climate Change on the Full Enjoyment of Human Rights«, joint paper by five mandate holders of the Human Rights Council, 30 Avril 2015, available at <http://www.thecvf.org/wp-content/uploads/2015/05/humanrightsSRHRE.pdf>.

3. UNFCCC (2016), *Aggregate effect of the intended nationally determined contributions: an update*, UN Doc. FCCC/CP/2016/2.

Secondly, whereas previous climate agreements focused primarily on reducing emissions, the Paris Agreement addresses with equal importance questions related to mitigation and adaptation. For instance, it defines a collective goal of fostering resilience and reducing vulnerabilities (article 7.1) Governments are required to strengthen cooperation on adaptation, taking into consideration vulnerable groups and communities, to report periodically on their national efforts and to enhance financial support.

Thirdly, the Paris Agreement specifically addresses the issue of loss and damage resulting from climate change. While these issues were addressed neither under UNFCCC nor under the Kyoto Protocol, this issue was recognised for the first time in the 2010 Cancun Agreements. In 2013, the parties to the UNFCCC agreed to establish a Warsaw International Mechanism on Loss and Damage (WIM). The Paris Agreement confirmed the role of this mechanism and extended its mandate. The agreement provides that action and support related to loss and damage should address, among other things, non-economic losses and the resilience of communities and livelihoods. Approaches related to loss and damage could provide opportunities to remedy the situation of communities and peoples impacted by extreme weather events or to slow the onset of events. Consequently, the WIM could play an important role in guaranteeing the rights of those living at the frontline of climate change. A task force on climate-induced mobility is also established to avert, minimize and address displacement.

Fourthly, gender equality and the participation of women is mentioned several times in the Paris Agreement. The preamble stresses the need to promote gender equality and the empowerment of women. The operative provisions also explicitly emphasize the importance of gender-responsive policies in relation to adaptation and capacity building. However, other proposed references to gender equality in relation to mitigation, finance and technology transfers were deleted before adoption of the Agreement as some parties sought to limit the range of policies to which this principle would apply.

Fifthly, the Paris Agreement highlights the importance of public participation and access to public information in relation to all matters addressed by the Agreement (preamble, para. 10) and stresses the commitment of

its parties to take measures to enhance public participation and access to public information (article 12). This commitment builds on similar provisions contained in the UNFCCC (article 6) and in the Kyoto Protocol (article 10(e)). The use of the verb *enhance* however emphasises that further action is needed from parties in order to promote public participation and access to public information. This commitment to participatory climate action is further stressed in specific provisions of the agreement related to adaptation (art. 7.5) and to capacity building (11.2). The COP decision accompanying the Paris Agreement also requests parties to explore ways of enhancing the implementation of, among other things, public participation and access to information during the first meeting of the COP following the entry into force of the Agreement.

Finally, the Agreement places greater emphasis than previous climate agreements on definition of the context in which climate action must be implemented. The agreement stresses the »intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty« (preamble). It further repeatedly emphasizes that its general objective and mitigation provisions must be interpreted in the context of sustainable development and efforts to eradicate poverty. It also provides that adaptation measures must protect people and livelihoods, take into consideration vulnerable groups and communities and be integrated in relevant socioeconomic policies. These references provide an opportunity to implement the Agreement while taking into account other rights-related objectives defined by the international community such as those related to Agenda 2030 and the SDGs.

### 2.3 References to Human Rights in National Commitments

In addition, in their national commitments several parties emphasised that they would implement their climate policies with due consideration for human rights. According to the decisions reached in Warsaw in 2013 and in Lima in 2014, each party to the UNFCCC was requested to prepare Intended Nationally Determined Contributions (INDCs) to climate action and was requested to communicate these INDCs before the COP-21.

The scope of INDCs covers mitigation policies, and in some countries adaptation and – less frequently – international support. Prior to the conclusion of the COP-21, 189 countries had submitted their INDC to the climate secretariat.

Many governments decided to provide information not only about the objective of their mitigation and adaptation policies but also about the principles and obligations that would guide implementation of these climate actions.

In total, 24 countries mentioned human rights in their INDCs. 17 countries did so while insisting on the importance of integration human rights in the implementation of climate actions.<sup>4</sup> Seven further countries mentioned human rights when describing relevant domestic legal frameworks.<sup>5</sup>

#### INDC submitted by Brazil

The Government of Brazil is committed to implementing its INDC with full respect to human rights, in particular the rights of vulnerable communities, indigenous populations, traditional communities, and workers in sectors affected by relevant policies and plans, while promoting gender-responsive measures.

#### INDC submitted by Chad

The country wishes to encourage investments in domestic mitigation projects, thanks, for instance, to the Clean Development Mechanism (CDM) and Program REDD+ (Reducing Emissions from Deforestation and forest Degradation). These initiatives shall pay particular attention to co-benefits for local populations, such as [...] (iv) the reduction of inequalities, including related to gender, and (v) respect for human rights. [...]

The implementation of the INDC of Chad will put the emphasis on taking more into account human rights and gender equality.

Text box 1: Examples of references to human rights in INDCs

4. Bolivia, Brazil, Chad, Chile, Costa Rica, Ecuador, Georgia, Guatemala, Guyana, Honduras, Malawi, Marshall Islands, Mexico, Morocco, Philippines, South Sudan and Uganda.

5. Cuba, El Salvador, Indonesia, Nepal, Venezuela, Yemen and Zimbabwe.

Many INDCs also refer to other specific aspects of rights-based policies, such as the need to guarantee food security (97 INDCs), the importance of gender equality and the participation of women (57 INDCs), and the need to ensure public participation in climate policies (70 INDCs).

### 3. Relevant Work of the UN Human Rights Bodies

#### 3.1 The States Political Process

The first initiative came from the Maldives which in 2008 introduced the issue of climate change at the UN Human Rights Council (HRC). Other initiatives have followed, including the Geneva Pledge, which emerged during the preparation of the COP21 in Paris. The Climate Vulnerable Forum (CVF), formed by the states particularly affected also included human rights on its agenda and took action within the HRC. Finally, as part of the recommendations among states in the Universal Periodic Review (UPR) peer review procedure, several states have raised questions and made recommendations on climate change issues. Now the HRC resolutions are tabled annually by a core group of three countries: the Philippines, Bangladesh and Viet Nam.

#### The UN Human Rights Council

- *Acknowledging that climate change impacts the enjoyment of human rights*

Rather shortly after its creation in 2006, thanks to the initiative of the Maldives, the Human Rights Council looked for the first time at the impact that climate change could have on the enjoyment of fundamental rights. By its Resolution 7/23 of March 2008 the Council expressed concern that climate change «poses an immediate and far-reaching threat to people and communities around the world» and requested the Office of the High Commissioner for Human Rights (OHCHR) to prepare a study on the relationship between climate change and human rights.

The OHCHR submitted its «Analytical study on the relationship between climate change and human rights» in January 2009. On this basis, the Council noted that «climate change-related impacts have a range of impli-

cations, both direct and indirect, for the effective enjoyment of human rights ...» and that such effects «will be felt most acutely by those segments of the population who are already in a vulnerable situation...». (Resolution 10/4 of March 2009).

Such a view was confirmed in a panel discussion on the relationship between climate change and human rights held at the 11th session of the HRC of June 2009. The HRC's Social Forum<sup>6</sup> focused its 2010 session on the adverse effects of climate change on the full enjoyment of human rights and on measures and actions to address such impacts. It was in that Forum that a large number of NGOs called on the HRC to mandate a Special Rapporteur on climate change<sup>7</sup>. A request still valid today.

The HRC continued its work in September 2011 with Resolution 18/22, which affirmed that human rights obligations, standards, and principles 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. These issues were further explored in February 2012 in a Seminar on the adverse impacts of climate change on the full enjoyment of human rights<sup>8</sup>.

- *In the run-up to Paris*

As the UNFCCC COP21 in Paris was foreseen, the Council emphasized (Resolution 26/27 of July 2014 and Resolution 29/15 of July 2015) the need for all states to enhance the international dialogue and cooperation to address the adverse impacts of climate change on the enjoyment of human rights, including the right to development. It called for dialogue, capacity-building, the mobilization of financial resources, technology transfer, and other forms of cooperation to facilitate climate change adaptation and mitigation in order to meet the special needs and circumstances of developing countries.

6. OHCHR, «Report of the 2010 Social Forum» (2010), UN Doc. A/HRC/16/62.

7. NGO Declaration on «Climate Change & Human Rights» (3<sup>rd</sup> United Nations Human Rights Council's Social Forum) This declaration has been finalized and adopted by the participants of the conference «Human Rights? An approach to respond to the challenge of Climate Change», which took place on Friday 1 October 2010 at the World Council of Churches in Geneva.

8. OHCHR, «Report on the outcome of the seminar addressing the adverse impacts of climate change on the full enjoyment of human rights» (2012), UN Doc. UN Doc. A/HRC/20/7.

A full-day panel discussion on specific themes relating to human rights and climate change<sup>9</sup> was held during the 28th session of the HRC of March 2015.

■ *After Paris, opening a thematic approach*

Envisaging its work for after adoption of the Paris Agreement, the Council called for a first thematic panel discussion and analytical study on the impacts of climate change on the enjoyment of the right to health (Resolution 29/15 of July 2015). The Analytical study on the impacts of climate change on the enjoyment of the right to health was submitted to the HRC at its June session in 2016. For 2017, the work of the HRC will focus on the impact of climate change on the rights of the child, with a panel during the 34th session in March 2017 and the study to be issued in June 2017 (Resolution 33/32 of June 2016).

#### The Geneva Pledge for Human Rights in Climate Action

During the February 2015 climate negotiations in Geneva, 18 countries joined in adopting «The Geneva Pledge on Human Rights in Climate Action». This non-binding, voluntary pledge reiterates the importance of addressing the human rights implications of climate change and emphasizes that human rights should inform climate responses. More specifically, it commits its signatories to promote better cooperation among their representatives at the Human Rights Council and at the UNFCCC, and to facilitate the exchange of knowledge and best practices among their own delegations.

In this context, the Geneva Pledge provides a policy forum where interested parties collaborate to improve coherence between climate change, environment and human rights processes under the UN system and to strengthen concrete actions at the national level.

On Tuesday, 13 September 2016, on the occasion of the 33<sup>rd</sup> session of the HRC, the Signatories of the Geneva Pledge hosted a dialogue between representatives of the signatories of the Geneva Pledge, climate change

and human rights experts, and other interested stakeholders, to discuss the linkages, policy options, and avenues for integrating human rights, climate change and the environment. The opening keynote speeches were given by Ms. Patricia Espinosa, Executive Secretary of the UNFCCC and Mr. Zeid Ra'ad Al Hussein, High Commissioner for Human Rights.

#### The Human Rights Agenda of the Climate Vulnerable Forum

The Climate Vulnerable Forum first met near Malé in the Maldives in November 2009, bringing together heads of state, ministers, and other government leaders from countries threatened by climate change around the world. It has since been active in building cooperation, knowledge and awareness of global warming issues. It last met at the CVF High-Level Meeting held during the UNFCCC Climate Change Conference in Paris (COP21). The Manila-Paris Declaration and the 2016-2018 Roadmap of the CVF, adopted at this meeting, spell out the efforts planned by the CVF's over this period. The Forum has a rotating chairmanship that has been held by the Maldives, Kiribati, Bangladesh, Costa Rica, and the Philippines. The current chair, Ethiopia, assumed the presidency at the High Level Climate Policy Forum in August 2016.

The first CVF plan of action, known as the Costa Rica Action Plan 2013-2015, added five priority sectors including human rights to the priority areas of finance and the UNFCCC, with the HRC as the relevant international forum. In its 2016-2018 Roadmap, the CVF continued the work already begun as laid out in the Costa Rica Action Plan in the field of human rights in order «to promote continued understanding of the implications of climate change on the full enjoyment of fundamental human rights, the opportunities of ambitious climate action to improve the enjoyment of a wide range of human rights, and enhance coordination between climate change and human rights actions, in accordance with the respective national legal systems, including through engagement with the UN Human Rights Council and the Office of the UN High Commissioner for Human Rights».

9. OHCHR, «Summary report on the outcome of the full-day discussion on specific themes relating to human rights and climate change» (2015), UN Doc. A/HRC/29/19.



## Climate Change in the Universal Periodic Review: Human Rights Recommendations among States

The Universal Periodic Review (UPR) is the review of the human rights records of all UN Member States ensuring equal treatment for every country. The UPR is a state-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each state under review to declare what action it has taken to improve human rights in the country and to fulfill its human rights obligations, in a report which is supposed to be drafted in consultation with stakeholders and civil society. All other states can raise questions in a three-hour session and formulate recommendations that the state under review can accept or merely take note of. The UPR was one of the main features in the creation of the UN Human Rights Council by the UN General Assembly on 15 March 2006 by Resolution 60/251. No other universal mechanism of this kind currently exists.

During the first two cycles of the UPR, 62 recommendations were made on climate change (28 in the first, 34 in the second) by 32 states, for the attention of 25 states under review. Only five recommendations were only »noted« (and not fully accepted). It should be also noted that only five countries are in both categories. Also, this means that 52 states have expressed concern in one way or another by formulating or receiving a recommendation about climate change and human rights.

These recommendations have mostly asked states under review to start or continue engaging in international co-operation against climate change, and to step up their efforts at the domestic level in development policy or in consolidating their legal system. Several recommendations are specific about the efforts needed in mitigation or adaptation to respect human rights. In this perspective, it is also recommended, for example, to enhance the skills of stakeholders, provide access to information for the public, and training. Also included in some of these recommendations are the need to protect people in vulnerable situations facing the impacts of climate change, including children, to avoid discrimination (gender, origin, etc.), to ensure the rights to drinking water and food or to stop deforestation.

When states review human rights situations and policies and formulate recommendations among themselves, there is clearly growing attention paid to

climate change issues. This trend can be expected to continue in the coming 3<sup>rd</sup> cycle starting in 2017. It will be therefore very useful to see how the HRC and the Paris Agreement mechanisms support each other. In a study, the Mary Robinson Foundation demonstrated that only 14 countries have so far adopted a consistent approach to linking human rights and climate change in their reports to both the UNFCCC and the HRC UPR processes<sup>10</sup>.

### 3.2 Monitoring Situations, Reporting on State Obligations and Supporting Adequate Policies

Within the UN system of human rights protection, States can benefit from several sources of information, studies and expertise, as well as recommendations for the development of their public policies. These contributions come from the main human rights organs discussed hereinafter.

The High Commissioner for Human Rights is the principal human rights official of the United Nations. The High Commissioner spearheads the United Nations' human rights efforts and heads the Office of the United Nations High Commissioner for Human Rights (OHCHR). The OHCHR has a unique mandate from the international community to promote and protect all human rights. It also supports the work of the United Nations human rights mechanisms, including the treaty bodies established to monitor state parties' compliance with the core international human rights treaties and the Special Procedures of the Human Rights Council.

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. They conduct thematic studies, convene expert consultations, contribute to the development of international human rights standards<sup>11</sup>, undertake country visits<sup>12</sup>; act on individual cases and concerns of a broader, structural nature and provide advice for technical cooperation.

10. *Incorporating Human Rights into Climate Action*, Vers 2, May 2016, Mary Robinson Foundation for Climate Justice (MRFJ).

11. <http://www.ohchr.org/EN/HRBodies/SP/Pages/SeminarsConsultations.aspx>.

12. <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryandothervisitsSP.aspx>.

The human rights treaty bodies are committees of independent experts of recognized competence in human rights, who monitor the implementation of the core international human rights treaties. These independent experts are appointed for fixed renewable terms by state parties. Each state party to a treaty has an obligation to ensure that everyone in the state can enjoy the rights set out in the treaty and to report periodically to the treaty body on how it fulfills its treaty obligations.

Establishing how Human Rights can be Affected by Climate Change or Measures to Mitigate and Adapt

#### ■ *Studies by the OHCHR*

The first task was to establish the links between human rights and climate change. After adoption of the first resolution (7/23) by the Council, this is what the OHCHR initiated with its *Analytical study on the relationship between climate change and human rights* submitted to the HRC in January 2009<sup>13</sup>.

This study shows how the observed and projected impacts of climate change have implications for the enjoyment of human rights and for the obligations of states under international human rights law. It referred to the factual elements identified by the IPCC Reports and underlined the basis of the UNFCCC process in pursuing response measures (mitigation and adaptation) such as the recognition of an unequal burden of the impact between states and regions and the need of an equity principle, formulated as a «common but differentiated responsibilities (CBDR)». The OHCHR report was the first to outline how in many ways climate change undermines a range of internationally recognized human rights, in particular the rights to life, to adequate food, to water, to health, to adequate housing and to self-determination. It also pointed to the concerns about the rights of specific vulnerable groups like women, children and indigenous peoples. The report also addressed the human rights implications of climate change-induced displacement and conflicts, as well as the human rights implications of the measures taken to address climate change themselves. This report provided the basis for acknowledging and exploring the impacts of climate change on human rights.

13. OHCHR, «*Report on the relationship between climate change and human rights – Summary*», (2009), UN Doc. A/HRC/10/61.

The OHCHR is also preparing an Expert Meeting on Climate Change and Human Rights for October 2016. This two-day meeting will bring together states, civil society organizations, UN agencies and experts to consider human rights, migration, and displacement in relation to the adverse impacts of climate change, as well as the rights of persons, groups and peoples disproportionately impacted by climate change. It will explore how to integrate human rights in climate action and promote accountability for climate commitments through human rights mechanisms.

#### ■ *Reports of Special Procedures*

A number of Special Procedures have been concerned with climate change. The Special Rapporteur on human rights and the environment<sup>14</sup> has been particularly engaged, issuing a Climate Change mapping report<sup>15</sup> in January 2014 on the human rights obligations relating to climate change, reviewing statements made by all the human rights mechanisms about human rights threatened by climate change, and human rights obligations related to climate change. The Special Procedures have provided a number of field observations and recommendations concerning, for example, the right to safe drinking water, food or adequate housing.

The Special Rapporteur also issued one of his annual thematic reports<sup>16</sup> on human rights obligations relating to climate change (31st session of the HRC). In this report, the Special Rapporteur describes the increasing attention paid to the relationship between climate change and human rights in recent years, reviews the effects of climate change on the full enjoyment of human rights and outlines the application of human rights obligations to climate-related actions. He explains that states have procedural and substantive obligations with regard to climate change, as well as duties to protect the rights of the most vulnerable.

There have also been several joint efforts by Special Procedures mechanisms concerning climate change.

14. <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>.

15. <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/MappingReport.aspx>.

16. Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, «*Annual Report to the Human Rights Council*» (2016), UN Doc. A/HRC/31/52.

In an Open Letter dated 17 October 2014 to state parties, 28 Special Procedures urged the UNFCCC »to adopt urgent and ambitious mitigation and adaptation measures to prevent further harm« and to include in the 2015 climate agreement a commitment that »the Parties shall, in all climate change related actions, respect, protect, promote and fulfil human rights for all, and to launch a work program to ensure that human rights are integrated into all aspects of climate actions.<sup>17</sup>«

On the occasion of World Environment Day 2015, a joint statement was issued drawing attention to the grave harm even a two degree Celsius increase in average global temperature would cause to the enjoyment of human rights. The Special Rapporteurs urged climate negotiators to reach an agreement that reflects the obligations human rights law places on states to protect and promote human rights.

A report was also prepared by several Special Rapporteurs for the Climate Vulnerable Forum. On behalf of the Forum, the Philippines, as CVF chair, submitted the report, entitled »The Effects of Climate Change on the Full Enjoyment of Human Rights,« on 1 May 2015 to the Conference of Parties (COP) to the UNFCCC. The Forum urged the COP to adopt a more ambitious target in the climate agreement currently under negotiation in order to avoid the devastating effects of a rapidly warming planet on the basic rights of all persons.

#### Thematic approaches

Beside these general linkages, a more thematic approach has emerged.

The OHCHR was mandated in 2015 by the HRC (Resolution 29/15) to conduct an analytical study on the impacts of climate change on the enjoyment of the right to health, which was published in June 2016.<sup>18</sup>

17. *A New Climate Change Agreement Must Include Human Rights Protections For All*, Open Letter from Special Procedures mandate-holders of the Human Rights Council to the State Parties to the UN Framework Convention on Climate Change on the occasion of the meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, 17 October 2014.

18. OHCHR, »Study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health« (2016), UN Doc. A/HRC/32/23.

It indicated how climate change contributes to the increasing frequency of extreme weather events and natural disasters, rising sea levels, floods, heatwaves, drought, the spread of tropical and vector-borne diseases, ecosystem damage, and the associated displacement of persons, all of which have far-reaching implications for the right to health.

The Council has also mandated the OHCHR (Res 32/33 of June 2016) to prepare an analytical study on the impact of climate change on the enjoyment of the rights of the child, to be presented at the June 2017 session.

#### ■ *Special Procedures*

More than a dozen Special Procedures, in the framework of their mandate, have reported on issues relating to climate change. They have identified problems and threats affecting the right to life and to physical integrity, the right to an adequate standard of living, including adequate housing, access to drinking water and sanitation, food and health. Populations in vulnerable situations were also identified, such as children, migrants, or indigenous peoples. Discrimination against women or girls was also noted.

In the coming years the Special Procedures will continue to provide information on climate change-related issues in their annual reports and country visit reports, in the framework of their mandate and will thus provide a more accurate picture of the »human face« of climate change.

#### ■ *General Comments by Human Rights Treaty Bodies*

In the course of interpreting the provisions of their treaty and in order to facilitate its implementation by the parties, treaty bodies have started to address relevant climate change issues. The most advanced treaty body to date is the Committee on the Rights of the Child. The Committee has explicitly recognized climate change as a major threat to children's health globally in its 2013 General Comment on the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health<sup>19</sup>: »The Committee draws attention to the relevance of the

19. General Comment No. 15: The right of the child to the enjoyment of the highest attainable standard of health (2013) (»General Comment No. 15«).

environment, beyond environmental pollution, to children's health. Environmental interventions should, *inter alia*, address climate change, as this is one of the biggest threats to children's health and exacerbates health disparities.«<sup>20</sup>

»Children's health is affected by a variety of factors, many of which have changed during the past 20 years and are likely to continue to evolve in the future. [...] There is also a growing understanding of the impact of climate change and rapid urbanization on children's health.«<sup>21</sup>

Other treaty bodies, such as the Committee for the Elimination of all Discrimination against Women (CEDAW), the Human Rights Committee (civil and political rights) or the Committee on Economic Social and Cultural Rights (CESCR) now also include climate change concerns in their own General Comments drafted for the implementation of their treaty.

#### Monitoring Situations and Compliance with Human Rights Obligations

##### ■ *Special Procedures*

Since 2009 a dozen Special Procedures have reported about situations on the ground where people and states see their rights affected by climate change. Small island states have been visited, such as the Maldives, the Marshall Islands, Kiribati, and Tuvalu. The situation of developing countries such as Cameroon, Kenya, Mexico, Nicaragua, Syria and Vietnam has been studied. The policies and situation in industrialized States such as Finland, Norway, Sweden or the USA have come under scrutiny.

##### ■ *Human Rights Treaty Bodies*

As parties to a treaty have to report periodically to the treaty body how they implement their obligations, the situation on the ground is brought to the attention of the body by the state report and other sources of information and discussed in an open meeting. The resolutions coming out of these reviews remain expert advice.

They provide guidance to states for the implementation of their obligations and in a number of cases have triggered legislative changes or changes in practice.

At least five of the ten treaty bodies have made comments and recommendations on specific situations relating to climate change (Committees on the Elimination of all Discrimination Against Women-CEDAW; on the Rights of the Child-CRC; on Economic Social and Cultural Rights-CESCR; Against Torture-CAT; on the Elimination of Racial Discrimination - CERD). Some 40 such recommendations have been formulated addressing more than 20 countries.

#### Providing Recommendations for Human Rights-Based Climate Actions

As much as they can, all human rights bodies provide recommendations, guidance, and expertise to states to support them in fulfilling their obligations. The OHCHR made a submission<sup>22</sup> to the 21<sup>st</sup> Conference of Parties to the UNFCCC (27 November 2015) on the obligations and responsibilities of states and other duty-bearers (including businesses) and their implications for climate change-related agreements, policies, and actions, summarizing the essential obligations and responsibilities as they appear from the contributions of the human rights bodies.

In order to foster policy coherence and help ensure that climate change mitigation and adaptation efforts are adequate, sufficiently ambitious, non-discriminatory and otherwise compliant with human rights obligations, the following considerations should be reflected in all climate action:

- To mitigate climate change and to prevent its negative human rights impacts
- To ensure that all persons have the necessary capacity to adapt to climate change
- To ensure accountability and effective remedy for human rights harms caused by climate change
- To mobilize the maximum available resources for sustainable, human rights-based development
- International cooperation

20. Ibid at 50.

21. Ibid at 5.

22. OHCHR's submission, *Understanding Human Rights and Climate Change*, to the 21<sup>st</sup> Conference of Parties to the UNFCCC (27 November 2015).

- To ensure equity in climate action
- To guarantee that everyone enjoys the benefits of science and its applications
- To protect human rights from business harms
- To guarantee equality and non-discrimination
- To ensure meaningful and informed participation

### 3.3 Hearing the Voice of the Victims of Climate Related Human Rights Violations

Human rights bodies have yet to hear many victims of climate change. However, the number of such victims is highly likely to grow with the increase in global warming. The ability of individuals to complain about the violation of their rights in an international arena brings real meaning to the rights contained in human rights treaties; human rights can therefore play a very meaningful role in the struggle against climate change.

Within the UN human rights protection system, no specific body is mandated to play a role in collecting all the information about climate change-related violations. This is why in the 2010 Social Forum civil society called for the nomination of a Special Procedure devoted to climate change. The first accessible procedures for documenting human rights violations caused directly or indirectly by climate impacts as well as measures taken to mitigate or adapt to these impacts are the Special Procedures of the UN Human Rights Council.

Special Procedures are not formal procedures for legal complaints. But they can trigger a «communication procedure» where they will officially request information from a state. The information may be of a general nature and contribute to the Special Procedure's annual report to the UN Human Rights Council, which can recount situations and violations related to climate impacts and climate policies. Special Procedures can also propose possible measures to counter such violations and improve the situation on the ground. In so doing, they provide an accessible opportunity for victims to be heard and they can provide a picture of the situation on the ground. They can point to trends and to the scale of phenomena.<sup>23</sup>

23. *Submitting information on human rights violations related to climate change to the United Nations Special Procedures*, by Earthjustice; Franciscans International; Friedrich-Ebert-Stiftung, Geneva; World Council of Churches; Center for International Environmental Law; Geneva 2014

In the coming years it will be important to give Special Procedures, and all the relevant UN human rights procedures the opportunity to document how climate change affects the full enjoyment of human rights.

#### **Recommendations for Human Rights Institutions**

The Human Rights Council should continue the efforts undertaken with its annual resolutions on climate change, by following a thematic approach and by paying attention to the implementation of the Paris Agreement in framework of the UNFCCC.

Joint activities between the UN bodies in charge of the protection of human rights and of climate change should be supported and consolidated.

For the 3<sup>rd</sup> cycle of the UPR, which begins in 2017, states must incorporate the effects of climate change in their national human rights reports, as well as in the questions and the recommendations they address to each other.

The work of the Special Procedures on climate change, within the framework of their respective mandates, must be supported and highlighted. A Special Procedure should be mandated to work systematically on climate change, in coordination with existing mandates.

## 4. Next steps at the COP-22 in Marrakech and Beyond

The COP-22 to be held in November 2016 in Marrakesh is expected to consider two parallel sets of tasks. Firstly, it will need to address practical aspects of operationalizing the Paris Agreement. This work will be undertaken mainly by the Ad-hoc Working Group on the Paris Agreement (APA). Secondly, the COP will continue to consider issues related to implementation of many specific provisions of the UNFCCC and the Kyoto Protocol and their associated work programmes. Its Subsidiary Body for Implementation (SBI) and for Scientific and Technical Advice (SBSTA) will perform most of these tasks.

#### 4.1 Promoting a Holistic Approach for the Implementation of the Paris Agreement

The Paris Agreement established a country-driven approach to climate commitments, relying on three key mechanisms. Firstly, countries are requested to prepare and periodically communicate Nationally Determined Contributions (NDCs) defining the mitigation – and possibly adaptation – commitments that the country undertakes. Secondly, parties must report their progress in meeting these commitments and provide detailed inventories of greenhouse gas emissions through the Measurement, Reporting and Verification (MRV) framework. Thirdly, this information is to be reviewed every five years alongside scientific reports in order to consider the aggregate progress towards meeting the objectives of the Paris Agreement.

These three processes are the key mechanisms established in the Paris Agreement to promote the implementation of climate action. Consequently, the integration of human rights considerations in these processes would be critical to ensure that the principles and obligations highlighted in the Paris Agreement are fully taken into consideration when implementing the Agreement. Indeed, no other mechanism is currently foreseen to specifically monitor progress towards realizing these principles and obligations. This integration requires the scope of these three processes to be defined in an inclusive manner in order to promote the holistic implementation of the Paris Agreement, focusing not only on what countries are required to do but also on the principles guiding these actions. Given that the COP-22 is expected to advance the definition of the modalities for each of these three processes, the conference could be decisive with regard to the promotion of a holistic approach to implementation of the Agreement.

The COP will consider the features of NDCs as well as the information that parties will be required or recommended to include in them. While current guidance focuses on mitigation elements, governments could broaden this guidance and suggest that, in their commitments, parties also emphasise how the principles and obligations highlighted in the preamble of the Paris Agreement will be taken into consideration when implementing climate action. The COP could also request or urge parties to prepare their NDCs with the meaningful participation of domestic stakeholders.

The modalities for reporting on action and support by parties could build on this request and invite parties to communicate in their periodic reports institutional arrangements and modalities ensuring that climate action and the means of implementation take human rights obligations and other principles identified in the preamble into account. Such comprehensive reporting could enable the lessons learned to be identified. It could inform the delivery of capacity building to developing countries, highlighting specific challenges faced by individual governments. It would foster the exchange of good practices among countries and could build on synergies with other UN reporting mechanisms.

Finally, the Global Stocktake convened every five years as the high political event to strengthen climate action should include a focus on the promotion and respect of human rights and associated principles listed in the preamble of the Paris Agreement. The Global Stocktake should be invited to consider a broad range of information sources on the implementation of climate action, including information generated by other intergovernmental forums such as human rights institutions and the International Labor Organisation. The Global Stocktake should also be requested to convey a specific dialogue with parties, stakeholders and experts to assess collective progress, good practices and challenges regarding the promotion of these principles and obligations.

Designing the modalities of these three processes on the basis of a holistic approach to the Paris Agreement could ensure that human rights are more systematically integrated in climate action. This approach would also generate country-specific information and enable other relevant stakeholders – including key intergovernmental organisations – to contribute to the monitoring of implementation and to support governments. Consequently, it could foster synergies with other UN processes such as the Sustainable Development Goals (SDGs).

#### 4.2 Promoting Rights-Based Climate Action through Capacity Building

The Paris Agreement placed strong emphasis on the need to foster capacity building in order to support developing countries in the implementation of, among other things, their mitigation and adaptation policies. At the COP-21, a Paris Committee on Capacity Building (PCCB) was established to enhance this support.

During the May 2016 intersessional meeting, climate negotiators reviewed the efforts undertaken under the Convention and the Kyoto Protocol to promote capacity building, and drafted conclusions in order to inform future actions implemented under the UNFCCC and the Paris Agreement. These draft conclusions requests the PCCB, in managing its 2016– 2020 workplan, to take cross-cutting issues of national priority into consideration, such as gender responsiveness, human rights and indigenous peoples' knowledge.

The adoption of these conclusions at the COP-22 would ensure that PCCB can contribute to promoting the integration of human rights in the climate actions of developing countries. Additionally, the COP-22 is expected to identify issues for the PCCB to address at its first meeting in May 2017. The inclusion of human rights on the agenda of this first meeting of the PCCB could provide an opportunity for parties and experts to consider specifically how to promote the consideration of human rights obligations in climate actions.

#### 4.3 Market-Based and Financial Mechanisms

Negotiations will continue in Marrakesh on the mitigation mechanisms and frameworks established under article 6 of the Paris Agreement. In particular, the COP is expected to make progress towards defining modalities for the Sustainable Development Mechanism (SDM) created by article 6.4 of the Agreement. Some actors seek to elaborate these modalities on the basis of those related to the existing Clean Development Mechanism (CDM) established under the Kyoto Protocol. However, the experience of the CDM highlights the many weaknesses and issues of such market-based mechanisms. The operation of some projects registered under the CDM led to violation of the rights of local communities.<sup>24</sup> In Addition, loopholes in CDM modalities seriously undermined the environmental integrity of the mechanism and of the targets of countries using credits generated by the CDM, allowing many credits to be generated despite failure to contribute to the deployment of clean technologies.

The mandate contained in article 6 should, however, prevent any repetition of these issues. Firstly, the Paris Agreement emphasizes more strongly the need for the SDM to contribute to sustainable development. Additionally, the parties are explicitly invited to develop new modalities taking account of the experience gained with and lessons learned from existing mechanisms. The new mechanism should thus be designed to truly promote mitigation action and sustainable development, excluding projects incompatible with a just transition to a decarbonized economy and with the establishment of strong environmental and social safeguards.

In addition, the COP-22 is mandated to finalise negotiations on potential reforms of the CDM. The importance of these negotiations extends beyond the CDM, as any decision on these modalities would most likely inform the negotiations on the SDM. Since 2013, the parties have agreed to review the modalities and procedures of the CDM. This review offers an opportunity to address weaknesses in the current mechanism, for instance in relation to stakeholders participation and to the environmental and social integrity of registered projects. In Marrakesh, the parties are also invited to conclude a decision on establishing an appeal mechanism against decisions relating to individual CDM projects. Such a mechanism could help protect procedural rights if it includes legal standing for local communities that have not been appropriately consulted or whose rights would be infringed by a specific project. However, these negotiations have made little progress in recent years and are unlikely to be concluded at COP-22 due to the opposition to any such mechanism from key host countries of CDM projects.

#### 4.4 Attention to Specific Rights Holders

##### Rights of Women

Gender considerations have been on the agenda of the UNFCCC process since the COP met in Marrakesh in 2001. The parties then adopted a first decision on the promotion of gender balance in the bodies established under the UNFCCC. This issue gained increasing momentum with the inclusion of an increasing number of references to gender in thematic decisions adopted by the COP. The 2010 Cancun Agreements emphasised that »gender equality and the effective participation of women are important for effective climate action on all

24. See for instance the cases monitored by the organisation Carbon Market Watch: <http://carbonmarketwatch.org/project-campaigns/>.

aspects of climate change». In 2014, the parties to the UNFCCC established a two-year Lima Work Programme on Gender and mandated specific events to consider how to promote gender-responsive climate actions. Consequently, the COP-22 is expected to renew the mandate of this work programme.

While in May 2016 governments agreed in principle that the work programme should be continued and enhanced, the specific elements and features of this new work programme remain to be negotiated. In order to enhance existing work to promote gender equality in all areas of work under the convention, the COP-22 could establish a Gender Action Plan – on the model of those adopted by bodies established under the UNFCCC such as the WIM – identifying key objectives and specific actions to be implemented in the coming years. Building on the preamble of the Paris Agreement, this Gender Action Plan should build on existing legal obligations and international commitments of parties with regard to the rights of women.<sup>25</sup> Additionally, the COP should continue to mainstream gender considerations in all relevant decisions, for instance on climate finance and technology transfers.

#### Rights of Indigenous Peoples

The importance of indigenous rights has already been recognized in the climate change regime in 2010 when the Cancun Agreements took note of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This provision and the reference to indigenous peoples' rights contained in the Paris Agreement should be further operationalized to ensure that these rights are respected and promoted in the context of both mitigation and adaptation action. The UNFCCC could cooperate with relevant UN bodies – such as the United Nations Permanent Forum on Indigenous Issues (UNPFII) and the Special Rapporteur on the rights of indigenous peoples – to seek expertise on this integration.

In Paris, the parties also agreed to establish a platform to exchange experience and share best practices gained from the knowledge, technologies, practices and efforts

of local communities and indigenous peoples. However, the modalities for this platform remain to be defined. This work should be accelerated in order to promote and recognize indigenous knowledge.

#### Rights of the Child

The Paris Agreement highlights the need to respect and promote the rights of children. As highlighted in the previous section, the promotion of these rights in the context of climate change will be addressed by the Human Rights Council and of the Committee of the Rights of the Child in 2016/2017. However, there is currently no latitude under the UNFCCC to specifically address these rights in a cross-cutting manner. The COP-22 should mandate the organization of a dedicated event in 2017 in order to allow these bodies, as well as other relevant organisations, to share their expertise with actors participating to the UNFCCC process.

#### Rights of Migrants

The preamble of the Paris Agreement also specifically mentions the importance of considering the rights of migrants. These rights should be taken into account in the activities undertaken under the UNFCCC and the Paris Agreement in relation to both adaptation and loss and damage. As far as adaptation is concerned, the relevant institutions and actors should consider how these rights relate to the four priority areas of work identified for the Nairobi Work Programme on impacts, vulnerability and adaptation to climate change: ecosystems, human settlements, water resources and health. With regard to loss and damage, the newly established task force on human mobility should fully integrate the rights of migrants in the recommendations that it develops to avert, minimize and address displacement.

#### 4.5 Promoting Food Security

The COP-22 is also expected to decide how agricultural issues should be tackled in the climate regime. In recent years, this policy area has caused much controversy between countries insisting on the need to consider how mitigation measures could be promoted in the agricultural sector and others emphasizing that climate action

25. See the submission of the Women and Gender Constituency on the extension of the Lima Work Programme on Gender, available at [unfccc.int/files/parties\\_observers/submissions\\_from\\_observers/application/pdf/677.pdf](http://unfccc.int/files/parties_observers/submissions_from_observers/application/pdf/677.pdf).



promoted in this sector should focus primarily on adaptation and resilience. These discussions resulted in the adoption in 2014 of a programme of activities focused on the exchange of good practice and expertise. As these activities have now come to an end, the COP is expected to consider how to continue addressing agriculture in the context of climate change. Given the recognition in the preamble of the Paris Agreement of the fundamental priority of safeguarding food security and ending hunger, these discussions could offer an opportunity to consider how to promote and guarantee food security in the context of rising temperatures. The adoption of a work programme on climate change and food security could foster the mobilization of expertise on this issue and consideration of practical solutions.

#### 4.6 Platform for Non-State Actor Engagement

The Paris Agreement highlights the importance of mobilizing action by non-state actors, including the private sector and local governments and municipalities. Building on work initiated by the Peruvian and French presidencies of the COP, the COP-21 mandated the establishment of a Global Climate Action Agenda (GCAA) as a platform to promote such actions and to facilitate cooperation among non-state actors. Two high-level champions appointed by the COP presidencies are to further develop modalities for the GCAA.

However, institutionalisation of the role of non-state actors raises questions about the type of projects and initiatives compatible with the GCAA and the accountability of the non-state actors involved in this platform. Prior to the summer 2016, no stringent criteria or remedial mechanisms existed in connection with the GCAA. The development of governance modalities for this platform offers an opportunity to address this gap and ensure that no project associated with the GCAA is associated with infringements of human rights. Firstly, an exclusion list could be adopted to prevent the inclusion of projects whose nature raises particular social and environmental risks. Secondly, criteria should be identified such as the request that all private actors participating to the GCAA respect the UN Guiding Principles on Business and Human Rights.<sup>26</sup> Thirdly, an effective remedy mechanism

should be instituted to consider communications from individuals and communities whose rights are negatively impacted by projects registered under the GCAA.

#### 4.7 Public Participation and Access to Information

In 2012, the parties to the convention adopted a work programme (the Doha Work Programme – DWP) to support implementation of article 6 of the UNFCCC which refers, among other things, to the importance of promoting public participation and access to information. Progress with implementation of the work programme was reviewed recently and the parties adopted conclusions mandating additional activities in 2017-2020. In particular, they emphasised the need to strengthen mainstreaming activities related to article 6 in other areas of implementation of the convention. They also stressed the importance of regional cooperation and proposed organizing regional workshops.

The COP-22 offers the opportunity to consider how public participation and access to information might be relevant to specific areas of work under the UNFCCC, including mitigation, adaptation, climate finance, transfer of technologies, capacity building, and transparency. The promotion of public participation and access to information under the UNFCCC and the Paris Agreement should not be considered only on the basis of good practices but also as procedural rights as highlighted in Principle 10 of the 1992 Rio Declaration.

#### **Recommendations for the COP-22**

As the first COP held since the adoption of the Paris Agreement, the COP-22 will need to demonstrate its ability effectively to integrate human rights into climate actions. Firstly, governments should integrate these obligations at the core of the commitment and review cycles established under the agreement to promote climate action and support by all governments. The COP-22 must ensure that modalities of Nationally Determined Contributions (NDCs), the transparency framework, and the periodic review conference («global stocktake») promote such an integrated approach.

26. Human Rights Council (2011), *UN Guiding Principles on Business and Human Rights*, UN Doc. A/HRC/17/31.

The effective integration of human rights in climate change processes can be achieved only if negotiators have an adequate understanding of the implications of existing obligations for climate action. The organization of an in-session Expert Workshop in 2017 on human rights and climate action would enable the relevant experts and intergovernmental organizations to share expertise and good practices to inform the negotiation process. Additionally, governments – in particular in developing countries – should be supported in their efforts to integrate human rights in climate policies. Capacity building support mandated under the UNFCCC and the Paris Agreement could contribute to this work, also through the activities of the Paris Committee on Capacity Building (PCCB).

Finally, governments must ensure that all actors taking actions under the Paris Agreement are accountable for their responsibility regarding human rights obligations. Accountability mechanisms must be integrated in relation to the participation of private actors in carbon-trading mechanisms such as the Clean Development Mechanism (CDM) and the Sustainable Development Mechanism (SDM), as well as to the Global Climate Action Agenda (GCAA).

## 5. German Presidency of the G-20<sup>27</sup>

The G-20 has not yet addressed the interplay between human rights and climate change in any specific manner. Its activities have focused primarily on the promotion of financial and economic stability. The agenda of the G-20 has, however, progressively broadened to include a number of aspects related to sustainable development. This more inclusive agenda offers several opportunities to integrate human rights into climate-related policies addressed by the G-20. Mainstreaming rights-based approaches in the work G-20 would strengthen the legitimacy of the G-20 and promote policy coherence for sustainable development. In this section, we highlight potential opportunities for the German presidency to promote rights-based approaches to climate-relat-

ed actions in the lead up to the Hamburg Summit of 7-8 July 2017. We do so in particular on the basis of the outcomes of the G-20 Hangzhou Summit in September 2016 and of elements suggested for the agenda of the German presidency.

### 5.1 Green Finance Study Group

During its presidency, China emphasised the issue of green finance, including through establishment of a dedicated study group. In Hangzhou, the G-20 indicated its interest in promoting voluntary principles for green finance. The report produced by the Green Finance Study Group for the Hangzhou Summit noted that »*on a conceptual level, »green finance« can be understood as financing of investments that provide environmental benefits in the broader context of environmentally sustainable development*«. The German presidency could support work towards defining these voluntary principles, ensuring that a definition does not exclusively focus on environmental benefits but also addresses social considerations and co-benefits. Such principles could include the definition of an exclusion list identifying categories of projects and policies that are contrary to this broad definition. It could also compile information on international standards for safeguards and remedies to ensure that green financing does not support projects infringing the rights of local communities or indigenous peoples. These principles and safeguards could also be integrated in any commitment made by the G-20 in Hamburg in relation to infrastructures.

### 5.2 Energy Access

In recent years, the G-20 has launched several initiatives on the promotion of energy access and renewable energy. The G-20 adopted an Energy Access Action Plan in 2015, as well as a Voluntary Action Plan On Renewable Energy and an Energy Efficiency Leading Programme in 2016. The G-20 could integrate a right-based approach across all these initiatives in order to combat energy poverty and promote progress towards the Sustainable Development Goals, in particular Goal 7 on universal access to affordable, reliable, sustainable and modern energy.

27. The authors are grateful to Maeve McLynn and Lutz Weischer for their helpful insights.

The G-20 is also committed to phasing out »inefficient« fossil fuel subsidies and established a peer-review process to promote transparency on this issue. In 2016, the US and China were the first countries to undertake such a peer-review, other members being encouraged to follow suit before the Hamburg summit. This process could offer an opportunity to foster understanding on good practices allowing the phasing out of fossil fuels subsidies while addressing energy poverty. The methodology for the peer review could be updated under the German presidency to take into consideration the synergies between this objective and the promotion of universal access to clean energy.

### 5.3 Agenda 2030 and Long Term Decarbonisation Plans

Under the Chinese presidency of the G-20, the group considered the role that it could play to promote and support the implementation of the Sustainable Development Goals. At the Hangzhou Summit, the G-20 adopted an Action Plan on the 2030 Agenda for Sustainable Development. The Action Plan identifies where the G-20 has a comparative advantage to promote progress towards achieving the SDGs. The high level principles contained in the plan emphasise, among other things, the importance of leaving no one behind, the dignity of every person on the planet, people-centred sustainable development, and gender equality. Implementation of these high level principles across all actions by the G-20 in relation to Agenda 2030 could strengthen the rights-based approach to sustainable development.

The G-20 could also consider how to promote synergies between implementation of Agenda 2030 and the obligation for its members to develop long-term low-emission development strategies (Paris Agreement, article 4.19). Such synergies could include the integration of rights-based approaches to these long-term strategies, both with regard to the development of these strategies (with the participation of all stakeholders) and to its substance.

### 5.4 Migration

The G-20 began to consider issues related to migration at its 2015 Antalya summit during which it noted that the scale of forced displacement was of global concern and underlined the need to address the root causes of displacements. In 2016, the G-20 reiterated this call, primarily in relation to refugees. The G-20 further agreed to »continue to address forced displacement in 2017 with a view to developing concrete actions«. Given the strong relations between environmental factors and other root causes of migration, the G-20 should address all factors contributing to displacement and not only those related to conflict or political instability. Building on the work of other intergovernmental organisations and processes, the G-20 could develop a set of concrete actions specifically targeted at addressing climate-induced cross-border and internal displacements and provide support to migrants and the hosting communities.

### 5.5 Inclusiveness of the G-20

Finally, Germany could promote rights-based approaches to climate action by ensuring that the voices of those most vulnerable to climate change are included in the proceedings of the G-20 during its presidency. While previous presidencies have put processes in place for the consultation of youth, women, NGOs, and trade unions, these consultations have had only a very limited impact on G-20 proceedings. Germany could establish a new culture of inclusiveness for the work of the G-20, for instance by facilitating timely and meaningful interactions between representatives of civil society and both sherpas and working groups. Under the Aarhus Convention, Germany has the obligation to promote public participation and access to information in international forums whose decisions relate to the environment. In relation to other countries, Germany could seek to establish a dialogue on climate-related issues with the Climate Vulnerable Forum (CVF) and the »Vulnerable 20 Group« (the V-20 gathers finance ministers from the countries members to the CVF).

This could be promoted both by strengthening the role of stakeholders in the lead up to the Hamburg summit and by facilitating a dialogue between the G-20 members and governments from the most vulnerable countries.

**Recommendations for the German presidency of the G-20**

The G-20 has come to play a significant role in advancing international cooperation and securing joint commitments from the most powerful governments. The German presidency is in a unique position to integrate human rights in the climate-related work of the G-20, as it is perhaps the first presidency of the body with a strong interest in this issue and because the Hamburg summit will be the first meeting of the group after the entry into force of the Paris Agreement. Given its focus on fostering international cooperation in economic and financial stability, the G-20 is unlikely to address the promotion of human rights in climate action as a specific working area. Nevertheless, the agenda expected for the German presidency contains many items

related to sustainable development with regard to which the members of the G-20 could consider how to integrate human rights considerations.

The continuation of the work on green finance initiated under the Chinese presidency should consider the role that financial flows play in supporting mitigation action while respecting and promoting human rights. The G-20 should consider the experience of countries and international financial institutions with regard to the criteria and institutional safeguards for green finance. Efforts initiated under the G-20 to promote access to energy and the development of long-term decarbonisation plans should also consider synergies with the promotion of human rights and build on effective access to information, public participation and access to justice.



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## Imprint

Friedrich-Ebert-Stiftung | Global Policy and Development  
Hiroshimastrasse 28 | 10785 Berlin | Germany

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The views expressed in this publication are not necessarily those of the Friedrich-Ebert-Stiftung.

This publication is printed on paper from sustainable forestry.



ISBN  
978-3-95861-646-2