



Fighting Climate Change: The Contribution of the Human Rights Council

By YVES LADOR

This paper reviews the action taken by the UN Human Rights Council (HRC) on human rights impacts of climate change, as well as mitigation and adaptation measures. The overview shall help decision makers in the fields of climate change and human rights and facilitate integration and coherence between the two debates.

The first section presents the resolutions and ensuing reports and discussions of the HRC. Section two discusses the principles identified in those resolutions and actions, while a third section goes into detail on actions, reports and statements of Special Procedure mandate holders addressing climate change, resulting in their urgent call to the UNFCCC Parties who ***“shall, in all climate change related actions, respect, protect, promote, and fulfill human rights for all.”***

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1. The work of the Human Rights Council on Climate Change

The UN Human Rights Council was created on 3rd April 2006, by the UN General Assembly Resolution 60/251. But it really started its substantial work only after it adopted its own institutional mechanism on 18th June 2007 in Resolution 5/1. Therefore the Human Right Council has been concerned by the issue of climate change very early in its work.

➤ Opening the discussion: Resolution 7/23 of 2008 on “Human Rights and Climate Change”

On 28th March 2008, the Maldives, together with 78 co-sponsors from all regional groups, tabled a resolution on “Human rights and Climate Change”, which was adopted by consensus by the Human Rights Council (Resolution 7/23).

This Resolution 7/23, for the first time in an official UN resolution, stated explicitly that climate change **“poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights”**.

The members of the Council agreed to give further consideration by mandating the Office of the High Commissioner for Human Rights (OHCHR) to prepare a detailed analytical study on the relationship between climate change and human rights.

The origin of this action was the *Male’ Declaration*, adopted by representatives of the Small Island Developing States, who met in Male’ from 13 to 14 November 2007, where they solemnly requested:

(§4) “The Office of the United Nations High Commissioner for Human Rights to conduct a detailed study into the effects

of climate change on the full enjoyment of human rights, which includes relevant conclusions and recommendations thereon, to be submitted prior to the tenth session of the Human Rights Council.”

(§5) “The United Nations Human Rights Council to convene, in March 2009, a debate on human rights and climate change.”

➤ The 2009 Report of the Office of the High Commissioner on Human Rights on the relationship between Climate Change and Human Rights.

Mandated by the Resolution 7/23, the OHCHR’s report began to identify and define the relationships existing between human rights and climate change. 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 a equity principle, formulated as a “common but differentiated responsibilities (cbdr)”.

The OHCHR report outlined how climate change undermines in many ways 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 themselves, taken to address climate change.

The report was based on written and oral submissions by over thirty States, and thirty-five international agencies, national human rights institutions, NGOs and academic bodies.

➤ **Resolution 10/24 of 2009**

Based on the findings of the OHCHR report, a second resolution on climate change and human rights (10/4) was adopted by the Human Rights Council on 20 March 2009.

In this Resolution, the Council affirms that “human rights obligations and commitments have the potential to inform and strengthen international and national policy making in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.”

It also decides to hold a panel discussion on the relationship between climate change and human rights at its following session and to make the summary available to the Conference of the Parties to the United Nations Framework Convention on Climate Change for its consideration.

The Human Rights Council panel discussion on human rights and climate change.

On 15 June 2009, the Human Rights Council (11th regular session) included on its agenda a panel discussion, followed by an interactive dialogue on the relationship between climate change and human rights. After hearing experts from different backgrounds, Member State and Observers generally agreed that climate change has implications for a wide range of internationally protected human rights, that climate vulnerable countries are most at risk and that the human rights impacts do not fall evenly across a given population, but affects first the more vulnerable groups. Several

States even argued that such issues could be considered as a form of “climate injustice”.

Resolutions 7/23 and 10/4 were the first grounds for continued efforts within the Council to promote action on climate change, in particular for UN Special Rapporteurs.

➤ **“The Social Forum”**

The Human Rights Council decided in April 2010, by its Resolution 13/17 that its Social Forum, a body bringing together representatives of Member States of the United Nations and a broad range of other stakeholders, especially from developing countries, would consider:

... the adverse effects of climate change on the full enjoyment of human rights, including the right to life and economic, social and cultural rights;

... the measures and actions needed to address the impact of climate change on the full enjoyment of human rights at the local, national, regional and international levels, including on most vulnerable groups, particularly women and children;

... the international assistance and cooperation also needed in addressing the human rights-related impact of climate change.

The Social Forum met on 4 to 6 October 2010 and heard several round tables on the following issues:

Setting the scene: the adverse effects of climate change on the full enjoyment of human rights, including the right to life and economic, social and cultural rights

Measures and actions: addressing the impact of climate change on the full enjoyment of human rights, including on most vulnerable groups, particularly women and children.

The way forward: rights-based approach to climate change

In its conclusions the Social Forum recommended that:

... the Human Rights Council establishes a new mechanism, which could take the form of a special rapporteur or independent expert, dedicated to human rights and climate change.

... the Human Rights Council continues holding an annual discussion with the view to tracking the rapidly evolving impacts of climate change on human rights;

... the sixteenth Conference of the Parties in Cancun be informed of the deliberations of the 2010 Social Forum

... climate change be taken into account in the elaboration of the draft guiding principles on extreme poverty and human rights, and also in other human rights reports, such as those on water, food, health, housing or development.

... REDD and REDD+ programmes adopt a more rights-based approach, create legal awareness programmes along with other support programmes for indigenous peoples that may be affected by REDD programmes, and improve participatory and access-to-justice provisions.

... a human rights-based approach be applied to intellectual property and technology transfer in order to facilitate adaptation and even mitigation efforts;

... a mechanism be put in place for measuring performance on climate change, which should include human rights indicators, in order to create awareness and promote sustainable development options.

➤ **Resolution 18/22 of 2011**

In September 2011, the Human Rights Council adopted its third resolution on

“human rights and climate change,” resolution 18/22. This time, the resolution was tabled by the Philippines and Bangladesh, with the support of 43 cosponsors including the Maldives, Germany, and Spain. Resolution 18/22 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.

It also asked the OHCHR to convene a seminar to “further awareness and enhance understanding of the relationship between climate change and human rights, suggest actions and identify best practices that address the adverse effects of climate change on human rights; and enhance cooperation between human rights and climate change-awareness advocates.”

The 2012 Human Rights Council seminar on human rights and climate change.

The seminar was held from 23-24 February 2012, at the Palais des Nations. It focused on

... the inter- linkages between the adverse impacts of climate change and the full enjoyment of human rights;

... the need for international cooperation and for the respect for human rights in all climate change related situations;

... how to forge stronger cooperation between human rights and climate change communities.

In the conclusions of the seminar, it was noticed that all the experts had made the case of the adverse impacts of climate change on communities and on their human rights.

Some statements even claimed that “climate change can be considered as

the single most important threat to food security in the future” and that “climate change is the biggest threat to the enjoyment of a safe and healthy environment”.

It was also underlined that human rights can provide a response and/or that human rights should be taken on board in all strategies and policies in relation to climate change.

The role of Special Procedures in bridging the gap between Human Rights and Climate Change communities was highlighted. The Special Procedures can clarify legal issues; do fact finding missions on the ground; develop gradually legal instruments that responds to challenges. A Special Procedure could specifically be devoted to the issue of climate change. It could address the problem as a whole and more coherently and also orient the work of other Special Procedures.

A summary report was addressed to the June session of the Council and made available to the 18th session of the Conference of Parties to the UNFCCC (COP18) in November 2012 in Doha.

➤ **Resolution 26/27 of 2014**

After strong discussions and negotiations during the 26th session of the Human Rights Council, Resolution 26/27 was adopted without a vote on 27th June 2014.

It reiterated the concerns that the adverse effects of climate change “have a range of direct and indirect implications for the effective enjoyment of all human rights, and that the effects of climate change will be felt most acutely by individuals and communities around the world that are already in vulnerable situations owing to geography, poverty, gender, age, indigenous or minority status or

disability” and that “climate change has contributed to the increase of both sudden-onset natural disasters and slow-onset events, and that these events have adverse effects on the full enjoyment of all human rights”

It emphasizes “the urgent importance of continuing to address, as they relate to States’ human rights obligations, the adverse consequences of climate change for all, particularly in developing countries and its people whose situation is most vulnerable to climate change, especially those in a situation of extreme poverty, and deteriorating livelihood conditions”

The Human Rights Council also decides to incorporate into its programme of work for the 28th session a full-day discussion on specific themes relating to human rights and climate change and to dedicate one panel to identifying challenges and ways forward towards the realization of all human rights for all, in particular those in vulnerable situations and another panel discussion to how climate change has had an adverse impact on States’ efforts to progressively realize the right to food, and policies, lessons learned and good practices.

The Council also encourages relevant special procedures mandate holders to give consideration to the issue of climate change and human rights within their respective mandates and invites them, and other relevant stakeholders, including academic experts and civil society organizations, to participate actively in the panel discussions.

2. Statements and Principles emerging from the OHCHR Report and the HRC Resolutions

The 2009 report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the relationship between climate change and human rights as well as all the Human Rights Council Resolutions mentioned above have stressed the facts that :

Human Rights can contribute to climate policies

Climate change poses threats to the enjoyment of human rights

Fighting climate change requires an effective international cooperation

Responses must be coordinated with development

Individuals must be protected against foreseeable threats related to human rights.

➤ Human Rights contributes to climate policies

The Human Rights Council Resolutions 18/22 (2011) and 26/27 (2014) affirmed “that human rights obligations, standards and principles have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes.”

In Resolutions 10/4 and 18/22, the Council also specified that “in no case may a people be deprived of its own means of subsistence” as a result of climate change impacts.

Moreover, Resolution 18/22 and 26/27 also referred to the objectives of the United Nations Framework Convention on Climate Change and emphasized “that parties should, in all climate change-

related actions, fully respect human rights as enunciated in the outcome of the sixteenth session of the Conference of the Parties to the Convention” (known as the Cancun Agreements).

➤ Impacts of climate change can threaten human rights

The Human Rights Council in Resolution 7/23 (2008) identified climate change as a threat to the enjoyment of human rights. Specifically, it expressed concern “that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.” It also noted in Resolution 7/23 that climate change-related impacts “have a range of implications, both direct and indirect, for the effective enjoyment of human rights including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation.”

Human Rights Council Resolution 26/27 (2014) similarly stated that “the adverse effects of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights, including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination, the right to development and the right to safe drinking water and sanitation, and recall[ed] that in no case may a people be deprived of its own means of subsistence.”

Resolution 26/27 also expressed “concern that climate change has contributed to the increase of both sudden-onset natural disasters and slow-

onset events, and that these events have adverse effects on the full enjoyment of all human rights.”

Impacts on Developing Countries

The Human Rights Council in its Resolution 26/27 (2014) also recognized “the challenges of climate change to development and to the progress made towards the achievement of the Millennium Development Goals, in particular with regard to the goals on the eradication of extreme poverty and hunger, environmental sustainability and health.” It also reaffirmed that “people in developing countries, particularly in least developed countries, small-island developing States and African countries, that have contributed the least to global greenhouse gas emissions, are among the most vulnerable to the adverse effects of climate change on the full and effective enjoyment of all human rights, including the right to development.”

Impacts on vulnerable groups

Human Rights Council Resolution 26/27 (2014) expressed concern “that, while [the human rights] implications affect individuals and communities around the world, the adverse effects of climate change will be felt most acutely by those segments of the population that are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability.”

➤ The need for full and effective international cooperation

Human Rights Council Resolutions 18/22 (2011) and 26/27 (2014) recognized the need for international cooperation to address the global nature of climate change.

Resolution 18/22 stated that “climate change is a global problem requiring a

global solution, and that effective international cooperation to enable the full, effective and sustained implementation of the United Nations Framework Convention on Climate Change in accordance with the provisions and principles of the Convention is important in order to support national efforts for the realization of human rights implicated by climate change-related impacts.”

Resolution 26/27 provided that “the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions.”

Human Rights Council Resolution 26/27 also stressed the “importance of fostering dialogue and cooperation between relevant international organizations and stakeholders.”

Responses must be coordinated with development

Human Rights Council Resolution 26/27 (2014) stated that “responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty.”

Human Rights Council Resolution 26/27 provided that “developing countries, particularly least developed countries, small island developing States and African countries ... should be provided with predictable, sustainable and

adequate support to meet the costs of adaptation to and mitigation of those adverse effects.”

It similarly called upon States to “continue to enhance international dialogue and cooperation in relation to the adverse impacts of climate change on the enjoyment of human rights, including the right to development, particularly in developing countries, especially least developed countries, small island developing States and African countries, including through dialogue and measures, such as the implementation of practical steps to promote and facilitate capacity-building, financial resources and technology transfer.”

Resolution 26/27 further recognized “the need of giving due consideration in the elaboration of the Post 2015 development agenda to the role of international cooperation in relation to the special needs and particular circumstances of developing countries and to addressing the adverse impact of climate change on the full and effective realization of human rights.”

➤ **Individuals must be protected against foreseeable threats to human rights related to climate change**

The 2009 OHCHR report states that at the national level, “States may have an obligation to protect individuals against foreseeable threats to human rights related to climate change, such as an increased risk of flooding in certain areas.”

This is particularly crucial in the view of the adverse effects that climate change may have on specific rights.

Right to Life

The 2009 OHCHR report explained that the right to life will be threatened by severe weather events such as floods, storms, and droughts, as well as by an increase in hunger and malnutrition.

Right to Water

The OHCHR explained that climate change will adversely affect the right to water. For example, more than one billion people receiving melt water will be affected by the loss of glaciers and reductions in snow cover.

Right to food

The OHCHR report reminds that “poor people living in developing countries are particularly vulnerable given their disproportionate dependency on climate-sensitive resources for their food and livelihoods”. It refers to the work of the Special Rapporteur on the right to food who has documented how extreme climate events are increasingly threatening livelihoods and food security.

Right to the highest attainable standard of health

The OHCHR report described the adverse effects of climate change on the right to the highest attainable standard of health, which will be infringed by not only malnutrition and extreme weather events, but also by malaria and other diseases that thrive in warmer weather.

Right to adequate housing

The OHCHR report described the adverse effects of climate change on the right to housing, which has already been compromised in some situations. For example, by the forced relocation of communities in the Arctic and low-lying island States.

Right of self determination

The OHCHR report stated that the possible inundation and disappearance of small island States threatens the right of self-determination.

Right to know and to participate

The OHCHR report identified awareness raising, access to information, and public participation as critical in efforts to address climate change at the national level.

Moreover, Resolution 26/27 stressed “the urgent importance of continuing to address, as they relate to States’ human rights obligations, the adverse consequences of climate change for all, particularly in developing countries and its people whose situation is most vulnerable to climate change, especially those in a situation of extreme poverty, and deteriorating livelihood conditions.”

3. Special Procedures studies and statements¹

The Special Procedures of the Human Rights Council are independent human rights experts, elected by the Human Rights Council, with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights.

The Special Procedures conduct thematic studies and contribute to the development of international human rights standards, undertake country visits; act on individual cases and concerns of a broader, structural nature,

¹ Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable environment – Focus report on human rights and climate change – June 2014

bring alleged violations or abuses to the attention of concerned States and provide advice for technical cooperation. Special procedures report annually to the Human Rights Council. The majority of the mandates also reports to the UN General Assembly.

➤ 2007 – First call

It seems that the first special procedure to refer to climate change in its report was Prof Paul Hunt, Special Rapporteur on the **right to health**, who in his 2007 *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health* called on the “Human Rights Council to urgently study the impact of climate change on human rights generally and the right to the highest attainable standard of health in particular.”²

Very quickly a number of Special Procedures identified impacts of climate change as falling in the scope of their mandate.³

➤ A first collective statement for Copenhagen

In the preparation of COP-15 in Copenhagen, all UN Special Procedures joined in a collective actions by issuing a joint statement entitled “An ambitious climate change agreement must protect [the] human rights of all”, in which they argued that a weak outcome from COP-15 would threaten to infringe on human

² Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 8 August 2007, U.N. Doc. A/62/214, 107(j).

³ For example see Report of the Special Rapporteur on the right to food, Olivier De Schutter, Building resilience: a human rights framework for world food and nutrition security, 8 September 2008, U.N. Doc. A/HRC/9/23,

rights and called on mitigation and adaptation policies to be developed in accordance with human rights norms⁴. This was a very interesting and innovative steps

The Special rapporteur on **adequate housing** as a component of the right to an adequate standard of living announced its intention to consider the impact of climate change in its report. This was welcomed by the Human Rights Council in its Resolution 10/4 (2009):

Welcomes the decision of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living to prepare and present a thematic report on the potential impact of climate change on the right to adequate housing, and encourages other relevant special procedure mandate holders to give consideration to the issue of climate change within their respective mandates;

The report was published in the summer 2009⁵

That same year Prof. Walter Kälin, Representative of the Secretary-General on the human rights of **internally displaced persons**, included in his report a reference to initiatives on climate change that can protect displaced persons by natural disasters.

⁴ Joint Statement of the Special Procedure Mandate Holders of the Human Rights Council on the UN Climate Change Conference (Copenhagen, 7-18 December 2009) - See more at:

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9667&LangID=e#sthash.rlrFigwX.dpuf>

⁵ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, 6 August 2009, U.N. Doc. A/64/25.

Prof. Walter Kälin reiterated his recommendations on the nexus between climate change and displaced persons, in his 2010 Report.⁶

The Independent Expert (later Special Rapporteur) on **extreme poverty**, Magdalena Sepúlveda Carmona, explained that environmental degradation disproportionately affects people living in extreme poverty in her 2010 report.⁷

Prof Olivier de Shutter, the Special Rapporteur on the **right to food** reported on how agro-ecology improves resilience to climate change and thus contributes to the protection of the right to food.⁸

➤ **First Special Procedure country visit on climate change**

The Special Rapporteur on **adequate housing** as a component of the right to an adequate standard of living, Rachel Rodnik, continue to report on the impact of climate change in her 2010⁹ report and made the first country visit clearly addressing climate change by visiting the Maldives, a country directly affected and threatened to disappear by the raise of the sea level.¹⁰

⁶ Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, 5 January 2010, U.N. Doc. A/HRC/13/21

⁷ Report of the Independent Expert on extreme poverty and human rights, 9 August 2010, U.N. Doc. A/65/259,

⁸ Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter, 20 December 2010, U.N. Doc. A/HRC/16/49,

⁹ Report on the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, 9 August 2010, U.N. Doc. A/65/261

¹⁰ Addendum to the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Mission to

➤ Continuation and developments

Special procedures continue to include in their annual report the issue of climate change and its impacts in human rights as it fall under the scope of their mandate.

See, for example:

Report of the Special Rapporteur on internally displaced persons, Chaloka Beyani, 30 January 2012, U.N. Doc. A/HRC/19/54/Add.1,

Report of the Special Rapporteur on the human rights of migrants, François Crépeau, Un Doc A/67/299

Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, 18 March 2013, U.N. Doc. A/HRC/23/44,

The Special Rapporteur on the **right to water and sanitation** elaborated a lengthy and position paper on the impact of climate change on the right to water and sanitation and on the specific legal obligations that policy responses must take into consideration :

Climate Change and the Human Rights to Water and Sanitation, Position Paper

Document supported by the Special Rapporteur on the right to safe drinking water and sanitation and published on her web page.

Other country visits have been undertaken targeting countries severely affected by climate change.

See, for example:

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

Maldives, 11 January 2010, U.N. Doc. A/HRC/13/20/Add.3, 12;

Addendum Mission to Tuvalu (17-19 July 2012), A/HRC/24/44/Add.2

Report of the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, Addendum Mission to Kiribati (23-26 July 2012) A/HRC/24/44/Add.1

Climate change is included as a concern in visits of countries less under the focus of climate change impact, but still affected or contributing to it.

See, for example:

Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, Addendum, Mission to Viet Nam, 17 March 2011, U.N. Doc. A/HRC/17/34,

Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to the Syrian Arab Republic, 27 January 2011, U.N. Doc. A/HRC/16/49/Add.2

Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to Cameroon, 18 December 2012, U.N. Doc. A/HRC/22/50/Add.2,

Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to Canada, 24 December 2012, U.N. Doc. A/HRC/22/50/Add.,

Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to China, 20 January 2012, U.N. Doc. A/HRC/19/59/Add.1,

➤ An urgent call for Paris

In October 2014, the Special Procedures mandate-holders of the Human Rights Council wrote an Open Letter to the State Parties to the UN Framework Convention on Climate Change urging them to recognize the adverse effects of climate change on the enjoyment of

human rights, and to adopt urgent and ambitious mitigation and adaptation measures to prevent further harm. The Special Procedures called on the State Parties to include language in the 2015 climate agreement that provides that the Parties shall, in all climate

change related actions, respect, protect, promote, and fulfill human rights for all and urged also the State Parties to launch a work program to ensure that human rights are integrated into all aspects of climate actions. |

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