



# Human Rights and Climate Change: An approach that puts people in the forefront of the debate

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## Introduction: Why Rights?

*'We must not lose sight of existing human rights principles in the tug and push of international climate change negotiations. A human rights lens reminds us there are reasons beyond economics and enlightened self-interest for states to act on climate change ...'* Mary Robinson, former United Nations High Commissioner for Human Rights (Robinson, 2008).

Much research has been conducted and many words written on the issue of climate change. The ensuing debates and discussions about what should be done have been dominated by the scientists and the sceptics, the green lobbies, and the committed polluters and emitters as well as the politicians and economists. Meanwhile those most sharply affected by the changes under way are yet to have their voices fully heard as legitimate and essential stakeholders.

The literature and discourse has come to focus on the place of the human in the environment but there is still little that puts people in the forefront of the debate. Adopting a rights-based perspective opens the way for this to happen.

This paper addresses the human rights dimensions of climate change. It maps the landscape, explains the added value that a human rights lens brings to the discussions

and suggests some ways that the Commonwealth and others can bring this lens to the negotiating table. It does so in the context of the emergence of a new discourse at the United Nations that has begun to connect human rights and climate change,

**The voices of those most affected—the poor, women, indigenous people—are yet to be fully heard**

and against the background of preparations for the fifteenth UN Climate Change Conference (COP15) to be held in Copenhagen, 7-18 December 2009.

## Three Models

In the debates on climate change, three main patterns of thought have emerged in relation to the human in the environment. These are as follows:

*The planet as victim*

Much concern about climate change has focused on the damage being done to the planet—declining coral reefs, desertification, air pollution, changing weather patterns and so on. In this thinking, people are cast as the demons of the story, the perpetrators of harm to a vulnerable planet, while the planet (or the environment) is the victim.

*People as victims*

More recent discourse has allowed people into the equation with the human dimensions of climate change increasingly attracting attention. Here we see discussion of the impacts of changing climatic conditions on the ability of people to sustain themselves and live healthily. This model

reality should not only be acknowledged but also given high profile in planning.

*Human rights approaches*

The third model, still in its infancy in mid-2009, recognises a variety of human roles in the climate change story but also brings in rights and responsibilities. Human rights are being challenged by climate change. Rights to food, shelter, livelihood, work and health are some that are most immediately violated, while the rights to security, to life and even to a nationality are substantively threatened.

A human rights model shifts the paradigm from one that identifies ‘victims’ (who are most often perceived as passive) to one acknowledging affected groups as active stakeholders and critical voices. Indeed, a rights-based approach frames the terms of engagement and lays the basis for claims to be made by ensuring affected populations are given the space to speak, be heard, take action and influence responses.

The 2007 Malé Declaration on the Human Dimension of Global Climate Change was a major step in this new thinking in its commitment to an inclusive process that ‘puts people, their prosperity, homes, survival and rights at the centre of the climate change debate ...’ (Other significant human rights instruments are listed in Box 1.)

**Which Rights?***Human rights enter the climate change arena*

In 2008, Maldives initiated a resolution (UNHRC, 2008) at the UN Human Rights Council, calling for a study to be conducted on the link between climate change and human rights. The resolution enjoyed the support of 79 states, almost one-third of which were Commonwealth states. The study (United Nations, 2009), which was discussed at the Human Rights Council in March 2009, compiles information and evidence on the rights dimensions.

## A rights-based approach helps vulnerable populations speak out, take action and influence responses

acknowledges that people cause damage to the planet but also that people themselves are harmed, and that the well being, or welfare, of humans should therefore command attention.

The case for seeing humans as victims has particular merit in distinguishing, by way of disaggregation, exactly who the ‘people’ might be so that the impacts of key dimensions like poverty or gender can be seen. It is now well established that those who are already marginal or otherwise insecure are hardest hit in crises, hence we should anticipate that the poor, women, indigenous peoples, the disabled and other vulnerable sectors will bear the brunt of the adverse impacts of climate change. Their

### Box 1: Human Rights Instruments

The rights discussed in this paper appear in several treaties and interpretive comments. Among these are:

#### Right to life

‘Every human being has the inherent right to life. This right shall be protected by law.’ Article 6, International Covenant on Civil and Political Rights (ICCPR), 1966.

‘States Parties recognize that every child has the inherent right to life ...’ Article 6, Convention on the Rights of the Child (CRC), 1989.

#### Right to food

‘The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living ... including adequate food ...’ Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

‘States Parties shall take measures to provide adequate nutritious foods and clean drinking water ...’ Article 24, Convention on the Rights of the Child (CRC), 1989.

#### Right to adequate housing

‘The States Parties recognize the right of everyone to an adequate standard of living ... including ... housing, and to the continuous improvement of living conditions ...’ Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

‘States Parties undertake ... to guarantee the right of everyone ... to equality before the law, notably in the enjoyment of ... the Right to Housing ...’ Article 5, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 1965.

‘States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the

continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability ...’ Article 28, Convention on the Rights of Persons with Disabilities (CRPD), 2006.

#### Right to clean water

‘The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses ...’ UN Committee on Economic, Social and Cultural Rights, 2002.

‘States Parties shall take all appropriate measures to ensure ... women the right ... to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply ...’ Article 14, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979.

#### Right to health

‘The States Parties ... recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ...’ Article 12, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.

(Access the treaties at <http://www2.ohchr.org/english/law/>)

Key among these are the following:

- **Right to life:** Heatwaves, floods, storms, fires and droughts resulting from climate change are expected to increase global deaths. Increased hunger and malnutrition will prompt similar impacts. Vulnerable groups, especially children and people who are already poor and malnourished, will feel the impacts disproportionately.
- **Right to food:** It is estimated that climate change will increase the numbers of those facing malnutrition by 600 million people, with Sub-Saharan Africa being especially hard hit. The study states, 'Poor people living in developing countries are particularly vulnerable given their disproportionate dependency on climate-sensitive resources for their food and livelihoods ...' (United Nations, 2009).
- **Right to adequate housing:** Rising sea levels, intensified storm patterns and flooding have already caused displacement and will continue to do so, with adverse consequences for the shelter available to people affected. The special rapporteur on adequate housing noted that in Maldives rising sea levels caused by climate change 'jeopardizes the survival of the nation, which could be inundated by water, but more immediately, it jeopardizes the right to housing due to the scarcity of land ...' (Rolnik, 2009). Low lying states and delta regions are among those most affected.
- **Right to clean water:** Droughts, floods and water loss for those dependent on melt water, will have an adverse impact on this right. Currently 1.1 billion people are unable to access safe clean water and this situation is expected to worsen as a result of climate change.
- **Right to health:** It is expected that millions of people will be affected by increased malnutrition, disease levels and injuries due to extreme weather events. Diarrhoeal, cardio-respiratory and infectious diseases and the spread of malaria are anticipated.

Negative health effects will disproportionately be felt in the Middle-East, South Asia and Sub-Saharan Africa.

The study noted that economic and social stress resulting from climate change could have security and conflict repercussions. These include a heightened risk of violent conflict to 46 countries, mainly in Asia, Latin America and Sub-Saharan Africa.

Forced displacement is another consequence, with "environmental refugees" from climate-related droughts and floods ... already swelling the tide of rural-to-urban migration across Africa ...' (ActionAid, 2006). Current protections and supports for refugees are not appropriate for those displaced across borders by climate change impacts.

The study also highlights key vulnerable groups in the front line of the human rights impacts of climate change. These include women, children and indigenous peoples.

#### *Key principles*

The human rights lens brings into sharp focus the important principles of voice, participation and accountability.

- **Voice:** Those affected by climate change impacts should be given voice to relate their experiences in order to deepen understanding of the changes and to help determine the best responses. In the climate change context, voices from the front lines—from low lying states as well as vulnerable groups including the poor, women, children, fishing communities, indigenous peoples—must be heard in the negotiations that will affect their futures.
- **Participation:** Those who feel an impact should be meaningfully involved in the discussions and decisions that affect them. Meaningful participation (as distinct from ceremonial or

superficial participation) requires opportunities to be informed, to actively make contributions and to be part of decision-making.

- **Accountability:** Those making decisions should be accountable to those who feel the impacts of their decisions.

Not only are these principles good practice in terms of human rights but they also lend a robustness and a credibility to debating, decision-making and policy-shaping processes that in turn should enhance sustainability. Access to information is at the heart of making each of these elements meaningful.

## The Commonwealth is well placed to carry forward human rights dimensions in climate change debates

### The Commonwealth

Among the 53 member states of the Commonwealth there are 32 small states, 25 of which are small island states. This means that many in the Commonwealth are already feeling the impacts of rising sea levels, contaminated water, depleted marine resources and erosion of shorelines. The experiences of African countries, as highlighted in the forced migration and health concerns noted above, are also significant. Since it is expected that all countries will be affected by changing weather patterns, it is likely that forced migration will have an impact on many.

Small states have a particular vulnerability to climate change for a number of reasons other than size, including: remoteness and isolation; susceptibility to natural disasters and environmental change; limited economic diversification and access

to external capital; poverty; income volatility; and limited human capacity. The urgency for appropriate and sustainable responses is paramount.

For these reasons and many others the Commonwealth is not only well placed to engage in the climate change discussion but also to take the new human rights dimensions of this forward for its members and their populations.

The Commonwealth and the [Alliance of Small Island States \(AOSIS\)](#) are natural partners. AOSIS is a coalition of small-island and low-lying coastal countries that share similar development challenges and concerns about the environment, especially their vulnerability to the adverse effects of global climate change. It functions primarily as an ad hoc lobby and negotiating voice for small island developing states (SIDS) and has engaged in the shaping of global climate policy within the UN system. According to UNESCO (2004), 'The issue of environmental justice and the moral power of the Alliance's position are extremely important.' The Commonwealth can take forward the rights issues, which dovetail so strongly with the justice arguments of AOSIS, beyond the two organisations into the global negotiations.

### What is to be Done?

*Promote a human rights approach to climate change negotiations*

It is increasingly accepted that states have a duty to address climate change through mitigation and adaptation strategies, yet few of the approaches so far considered take cognisance of the rights dimensions whether in terms of the impacts of or responses to climate change. A leading UN human rights expert argues that countries are obliged to 'prevent and address some of the direst consequences that climate change may reap on human rights ...' (Kang, 2008). This may include: providing secure housing; ensuring good sanitation and safe, accessible water; and making sure citizens have access to information and legal redress, and take part in decision-making.

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*What can the Commonwealth do?*

- Build understanding, at all levels, of the connection between human rights and climate change.
- Incorporate human rights dimensions into all its work on climate change, in keeping with its own mainstreaming commitment.

The Commonwealth has a commitment to human rights and to addressing the particular contexts of small states. Commonwealth states have supported the call from Maldives for a greater understanding and incorporation of the human rights dimensions of climate change. Discussions with several member states and an exploratory seminar on the sidelines of the Human Rights Council suggest there is momentum and will for the Commonwealth to help to shape and make relevant to its members the nascent discourse on human rights concerns. The December 2009 Copenhagen negotiations will likely incorporate in some way the new human rights discourse on climate change. The opportunities are there for the Commonwealth to seek to integrate the rights case to climate change negotiations, highlighting the particular needs of small islands, Africa, low lying states and other vulnerable members.

#### *Plan for internal and international displacement*

Low lying states face inundation that could cause high level flooding or even full submergence. Eroding shorelines are being experienced already as are the reshaping of islands. Disappearance of islands will of course bring major consequences, including statelessness.

Foresight is prompting some states facing this prospect to consider how to take care of their populations. The Maldives President has announced an intention to buy land elsewhere in order to relocate the population, as has Kiribati (Miadhu News, 2009). Tuvalu has been exploring the possibility of establishing a category of 'climate change refugees'

and negotiating visas for people forcibly displaced by the disappearance of their country. While such mass movements constitute forced migration, the people so affected do not qualify under the legal definition of refugees in the 1951 Convention, which centres on the concept of persecution.

Internal displacement has also been prompted by environmental reasons, for example in Papua New Guinea and Bangladesh (Chhabara, 2008). Some estimates suggest that the number of environmental refugees will grow from 20 million in 2005 to 50 million by 2010 and 150 million by 2050 (Chhabara, 2008).

The rights and protections due to refugees are established in international law and states are obligated to meet these. Yet those displaced by climate change enjoy no such protection or even recognition in international law. Indeed the question of statelessness that may arise if countries disappear without adequate alternative provisions for populations is crucial and demands urgent attention.

*What can the Commonwealth do?*

- With so many island state members, several of them low lying, the Commonwealth needs to urgently consider whether it will support calls for the creation of a legal category of climate/environmental refugees and for the formulation of an international agreement for their treatment. The danger of mass statelessness has to be considered and avoided or planned for.

#### *Support the rights of indigenous peoples*

The relationship between many indigenous peoples and their environment, land or other natural resources is argued to be particular and inherently tied to issues of identity and survival (see for example, Salick and Byg, 2007; Kopenawa Yanomami, 2009). Indigenous peoples have been guardians of forests and primary users of dunes, and they are acutely affected by

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desertification. They have argued that their relationship to the environment is primal and that not only are their livelihoods and health affected by climate change but also that mistreatment of the forests or other natural environments is mistreatment of the peoples too. They also are repositories of experience and knowledge of environmental management.

The rights of indigenous peoples to livelihood, culture and survival is enmeshed with respect for and nurturing of the environment. Indigenous peoples are present and actively seeking to protect their rights in many Commonwealth countries.

*What can the Commonwealth do?*

- The Commonwealth might usefully consider supporting the ongoing initiatives that address the rights and welfare of indigenous peoples in member states.
- Advocate for the rights of indigenous groups in climate change negotiations.

## Conclusion

Human rights philosophy centres on the pursuit of human dignity and a common understanding of our shared humanity. The impacts of climate change tend to deny the first, while the negotiations have tended to fracture the second. A shared planet and a common future should forge a connectedness, yet that still remains elusive.

The negotiations in Copenhagen and beyond have a moral and procedural obligation to bring a shared concentration to the impacts on the most seriously, immediately or persistently affected populations. The process of developing appropriate policy responses that enjoy the support of affected populations is strengthened when their voices are taken into account. A human rights approach promotes these objectives.

The Commonwealth has taken a strong and consistent stand in support of human rights. The 1991 Harare Declaration commits the association to promoting human rights, along with democracy and

### Box 2: The Human Rights Case in Legal Processes

It is likely that the international human rights framework will increasingly be used to bring challenges to climate change and those responsible for it, into the courts. This has already begun so states should be aware that rights-based litigation against them is possible if they do not modify their behaviours. Adopting rights-based approaches and hearing from those impacted are appropriate ways for them to proceed.

The Inuit have filed a legal petition against the US government, arguing that its policies violate human rights. The Inuit Circumpolar Council (ICC), an international NGO representing some 150,000 Inuits of Alaska, Canada, Greenland and Chutkotka in Russia, filed the petition. It claims the USA is failing to control emissions of

greenhouse gases, damaging livelihoods in the Arctic and causing harm to the Inuits.

The petition, which was filed with the Inter-American Commission on Human Rights, contends that the USA is in breach of its international obligations and demands that it limits its emissions. It states: 'These impacts are destroying our rights to life, health, property and means of subsistence. States that do not recognize these impacts and take action violate our human rights ...' (Watt-Cloutier, 2007).

(Source: United Nations Environment Programme, <http://www.unep.org/indigenous/pdfs/Inuit-Washington.pdf>)

good governance, gender equality and sustainable economic and social development. More recently, the 2007 Lake Victoria Action Plan on climate change pledged to ‘... strengthen consideration of the human ... aspects of climate change’ and to provide assistance to assess the implications of climate change. This action plan also seeks the full participation of the population as a whole, including women, young people and Commonwealth organisations, in promoting a better understanding of climate change and its impacts, and in addressing adaptation and mitigation challenges.

By taking forward the human rights dimensions of climate change the Commonwealth would both address these commitments and strengthen the foundations of response strategies. Inclusion and adequate representation of affected populations will not only further ground understandings and shape responses, but also enhance collective efforts to ensure appropriate strategies.

The Commonwealth is well placed to lead this debate and take it into the next round of negotiations. Will it rise to the challenge?

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