

Discussion Paper

The rights of those disproportionately impacted by climate change (30 September 2016)

This paper was drafted by OHCHR in consultation with a core drafting group. It is designed to generate and support discussion at OHCHR's Expert Meeting on Climate Change and Human Rights on 6 – 7 October 2016. It is not intended as a complete examination of the rights of persons, groups and peoples disproportionately impacted by climate change.

The current situation

The negative impacts of climate change will increase exponentially according to the degree of climate change that ultimately takes place. It is widely recognized that these negative impacts will disproportionately affect individuals, groups and peoples in vulnerable situations, including women, children, older persons, indigenous peoples, minorities, migrants, rural workers, persons with disabilities, the poor, and those living in vulnerable areas (e.g. small islands, riparian and low-lying coastal zones, arid regions, and the poles). According to the Intergovernmental Panel on Climate Change (IPCC), “people who are socially, economically, politically, institutionally or otherwise marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses.”¹ In its resolutions on human rights and climate change, the Human Rights Council has repeatedly emphasized that the impacts of climate change “will be felt most acutely by those segments of the population who are already in a vulnerable situation.”

Climate change negatively affects people's rights to health, housing, water and food, among others. For example, it has been estimated that a 2°C increase in average global temperature would put between 100 and 400 million more people at risk of hunger and could result in 3 million additional deaths from malnutrition each year. In addition to its direct impacts on the enjoyment of human rights, climate change may also bring about indirect impacts by diverting resources from crucial public services such as health, education and agrarian support. Moreover, mitigation, adaptation, and geoengineering measures can themselves adversely affect the exercise of human rights. For example, there are documented instances of hydroelectric and biofuel projects that have resulted in human rights violations. There is also a high risk of human rights violations resulting from the implementation of resettlement programmes for those who are displaced or at risk of displacement due to climate change. However, well-conceived climate actions can reinforce social welfare systems and ensure support goes to those persons and communities most vulnerable to the negative impacts of climate change.

¹ IPCC, AR5, p. 54.

Implications

Climate justice requires that climate action is consistent with existing human rights agreements, obligations, standards and principles. Unfortunately, it is often the case that those who have contributed the least to climate change, including the poor, women, children and indigenous peoples, unjustly and disproportionately suffer its harms. Climate-related hazards also magnify gender inequalities and widen existing socioeconomic and political gaps which stem in part from the intersecting issues of poverty, control over land and productive resources, and marginalization in decision-making spheres. Despite the challenges they face, many persons and groups in vulnerable situations play key roles in their households and communities, in the protection and management of natural resources, and at the forefront of actions aimed at reducing human contributions to global warming. For these reasons, these individuals and groups must be meaningful participants in and primary beneficiaries of climate action, and when their interests are harmed they must have access to effective remedies.

General Assembly Resolution 67/210 (2013) recognizes the “need to engage a broad range of stakeholders at the global, regional, national and local levels, including national, subnational and local governments, private businesses and civil society, and including youth and persons with disabilities, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change.” The UNFCCC recognizes that some countries and ecosystems may be particularly vulnerable to the effects of climate change, and as such, they warrant special consideration and adaptation assistance.² The Cancun Agreement and the Paris Agreement further elaborate on how parties should address the impacts of climate change on people who are vulnerable to climate change as a result of geography, gender, age, indigenous or minority status, and disability.³

Appropriate adaptation and mitigation measures should be taken to protect and fulfil the rights of all persons and build resilience in vulnerable communities, including by recognizing that different factors (such as poverty, disparities in education and health, structural inequalities, and marginalization, among others) affect climate vulnerability. Special attention must be afforded to groups of people who are in vulnerable situations in small island developing states (SIDS), least developed countries (LDCs) and countries in situations of conflict and adequate resources must be mobilized and allocated for the realization of the economic, social and cultural rights of all persons, particularly those facing the greatest risks.

Although not the only persons and groups disproportionately affected by climate change, indigenous peoples, women, children and persons with disabilities often suffer some of its worst impacts. Many will experience compound impacts of climate change through multiple-discrimination. Understanding the impacts of climate change on these persons and groups, learning how to better engage them as active agents of their own rights, and making targeted recommendations therein will be critical to fulfilling human rights obligations nationally and internationally, and further informing and enacting a global climate action plan.

Indigenous peoples

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and International Labour Organization Convention No. 169 articulate the individual and collective rights of indigenous peoples. UNDRIP affirms that “indigenous peoples are equal

² UNFCCC Arts. 3(2), 4(4), 4(10).

³ Cancun Agreements (2011), *supra* note 8, at pp. 7, 12, 18,

to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such.” It calls for States to “provide effective mechanisms for prevention of, and redress for” actions which would undermine indigenous peoples’ rights including their rights to culture, land and resources, and self-determination. The UNDRIP specifically recognizes indigenous peoples’ rights to sustainable and equitable development and management of the environment (preamble), to conserve and protect the environment (Article 29), and to mitigation of “adverse environmental, economic, social, cultural or spiritual impact” (Article 32).⁴ The Paris Agreement acknowledges the rights of indigenous peoples and calls for participatory adaptation that takes into consideration the traditional knowledge of indigenous peoples.⁵

Climate change threatens these rights. According to the Interagency Support Group on Indigenous Issues, “climate will gravely harm the health of indigenous peoples traditional lands and waters” as well as the plants and animals upon which they depend for survival.⁶ Warming temperatures have impacted food security of groups living in the arctic, coastal regions, and deserts; extreme weather events have destroyed and damaged homes and sources of livelihood; and rising sea levels have changed the availability of fresh water resources. Climate change endangers delicate ecosystems upon which many indigenous peoples rely for housing, livelihoods and spiritual and cultural practices. It may also contribute to conditions that exacerbate the marginalization of indigenous peoples leading to loss of land and resources, discrimination, and unemployment.⁷

Efforts to prevent, mitigate and adapt to climate change can also threaten indigenous peoples’ rights. The production of biofuels can lead to land-grabbing, and displacement; and the construction of hydroelectric dams and other renewable energy projects can cause displacement and ecological damage. Both climate change and climate action can threaten indigenous peoples’ rights to self-determination, development, food, water, land and culture, among others.

Despite the profound impacts of climate change on indigenous peoples, they are often excluded from decision-making processes on climate change in breach of State human rights obligations. Human rights law requires that indigenous peoples be meaningful participants in their own development including climate dialogues and actions. As indigenous peoples often respond to climate change in innovative and effective ways, this will also help the global community mitigate and adapt to climate change. The IPCC has found that “indigenous, local and traditional knowledge systems and practices, including indigenous peoples’ holistic view of community and environment, are a major resource for adapting to climate change.” By empowering indigenous peoples and guaranteeing them control over their traditional knowledge, lands, territories and resources, as called for in UNDRIP, States can simultaneously improve climate mitigation and adaptation efforts and the situation of indigenous peoples.

⁴ United Nations Declaration on the Rights of Indigenous Peoples, A/61/L.67 (2007).

⁵ UNFCCC, *Adoption of the Paris Agreement*, FCCC/CP/2015/L.9 (2015).

⁶ United Nations Department of Economic and Social Affairs, Division for Social Policy and Development, *Climate Change – an overview*, Paper prepared by the Secretariat of the United Nations Permanent Forum on Indigenous Issues (November 2007).

⁷ United Nations Permanent Forum on Indigenous Issues, *Climate change and indigenous peoples*.

Women

Gender equality and non-discrimination are fundamental human rights principles. The International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights (ICCPR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Beijing Declaration and Platform for Action, and other instruments affirm that Parties and other relevant actors must prioritize gender equality in all their actions and recognize that individuals who are part of certain groups—notably, women, indigenous groups, and children—are entitled to special protections.

The United Nations Framework Convention on Climate Change (UNFCCC) has also highlighted the obligation of Parties to fulfil the rights of women and promote gender equality.⁸ The UNFCCC has emphasised “the need for gender mainstreaming through all relevant targets and goals in activities under the Convention as an important contribution to increase their effectiveness”.⁹ The 2010 Cancun Agreements include a detailed call for Parties to address the impacts of climate change on people who are vulnerable to climate change as a result of geography, gender, age, indigenous or minority status, and disability.¹⁰ The Cancun Agreements also recognize that gender equality and the effective participation of women are important for effective action on all aspects of climate change.¹¹

In its Concluding Observations on State Party reports and in a number of General Recommendations, the Committee on the Elimination of Discrimination Against Women underscores States parties’ and other stakeholders’ obligations under the CEDAW to adopt targeted and country-specific policies, strategies, legislation, budgets and other measures to address the gender dimensions of disasters and climate change. In 2009 at its 44th session, the Committee underlined that “All stakeholders should ensure that climate change and disaster risk reduction measures are gender-responsive, sensitive to indigenous knowledge systems and respect human rights. Women’s right to participate at all levels of decision-making must be guaranteed in climate change policies and programmes.” The Committee is currently drafting a General Recommendation on gender related dimensions of disaster risk reduction in a changing climate.

These efforts are critical because climate change impacts, including droughts, extreme weather events, sea level rise, ocean acidification, and flooding, affect women, girls, men and boys differently. Statistics on casualties of climate-related hazards and natural disasters show that women and girls are among the most impacted. Estimates by Oxfam suggested that around three times as many women as men have perished in Asian tsunamis. Typhoon Haiyan, which badly hit the Philippines and displaced 4 million people in 2013, resulted in a death toll of 6,300, of which 64 per cent were women. In Indonesia and Sri Lanka, more than 70 per cent of the fatalities from the 2004 tsunami were women, and in Myanmar in 2008, 61 per cent of the fatalities from Cyclone Nargis were women. In post-disaster situations, women are subjected to sexual assault and domestic violence. The United Nations Population

⁸ See, for example, UNFCCC decisions 36/CP.7, 23/CP.18, and 18/CP.20.

⁹ UNFCCC, *Report of the Conference of the Parties on its twentieth session, held in Lima from 1 to 14 December 2014. Addendum. Part two: Action taken by the Conference of the Parties at its twentieth session.* FCCC/CP/2014/10/Add.3 (2015).

¹⁰ UNFCCC Decision 1/CP.16, *The Cancun Agreements*, p. 8, UN Doc. FCCC/CP/2010/7/Add.1 (March 15, 2011).

¹¹ *Ibid.*, p 7

Fund estimated that 5,000 women were victims of sexual violence in the month following the devastating onslaught of Typhoon Haiyan in the Philippines.

Gender stereotypes may define and limit women's and girls' responses when natural calamities strike. Women and girls, especially in poor households in developing countries, are often responsible for caring for children and the elderly. Many of them are at home when disasters strike but are not targeted recipients of early warning systems and information on disasters. Some are limited in their responses by their culture and tradition, which for example may strip them of their rights to decide or share their knowledge and experience in disaster management or in natural resource management.

Climate change may threaten women's rights and gender equality by exacerbating existing situations of inequality and discrimination. Poverty, perhaps more so than other contributing factors, will greatly compound situations of vulnerability to climate change and women comprise 70 percent of the world's poor. In many contexts, women bear the burden of securing food, water, and fuel, frequently with limited mobility and access to resources, particularly in rural areas. For instance, women constitute 80 percent of farm workers worldwide, but own less than two percent of land and receive less than one percent of farm-worker credit.¹² Women and girls are also often responsible for finding water when water becomes scarcer as a result of drought or changing weather patterns. Travelling long distances and through unfamiliar terrain exposes women and girls to physical dangers (e.g., animal attacks) and sexual violence. The long hours spent searching for water takes away time for education, rest and recreation, which affects their over-all well-being and that of their families.

Realizing women's human rights implies recognizing and addressing the underlying and immediate causes of women's human rights violations; challenging structural constraints to the equal rights and choices of women and girls; and putting in place appropriate policy and programmatic responses in line with human rights principles. A human rights-based approach calls for the participation of marginalized, disempowered and discriminated against groups of women in decisions that affect their livelihoods and overall sustainable development. Climate action at all levels must integrate a strong human-rights based approach, taking into account not only women's vulnerability to climate change, but their crucial capability as leaders in disaster preparedness and management.

Women and girls are not passive victims of climate change impacts. They are agents, actors and leaders in crafting climate responses. Women already play key roles in the protection and management of natural resources and disaster response and are at the forefront of actions aimed at reducing human contributions to global warming. Indigenous women, for example, often are stewards in knowledge and use of natural resources, and may already act as community leaders. For example, a study of women's participation in forest management in India found a corresponding fall in illicit grazing and illicit felling, with significantly increased reforestation and regeneration of forest goods thereby enhancing forest carbon stocks. Women's engagement also resulted in greater involvement in decision-making processes, economic independence and improved household income levels. Climate change mitigation and adaptation should, therefore, not only be gender responsive, but also inclusive of women's right to full and active participation at all levels of decision-making.

¹² FAO, *The State of Food and Agriculture, Women in Agriculture: Closing the gender gap for development*. (2011).

Children

Climate change poses an immediate and far-reaching threat to the enjoyment of many, if not all, of the rights enshrined in the Convention on the Rights of the Child, including those related to survival and wellbeing, health, food security and nutrition, water, and access to education. Article 24 of the Convention on the Rights of the Child directs States to account for the “dangers and risks of environmental pollution” to ensure full implementation of the right to health for children. It further outlines how States should ensure full implementation of the right. For example, States “shall take appropriate measures” to “combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.”¹³ The Cancun Agreement further recognizes the need to “fully account” for the adverse effects of climate change on children,¹⁴

Children, especially the most disadvantaged, are particularly vulnerable to the impacts of climate change. From malnutrition and the spread of vector- and water-borne diseases, to physical and psychological trauma, children are affected in different ways, and more profoundly, than the population as a whole. They are also one of the largest groups to be affected, as many of the countries that are most vulnerable to climate change are also those that have the most children as a share of their overall population. Shifts in child demographics over coming decades will further accentuate this. Recent data suggests that more than half a billion children live in areas with extremely high risk of flooding, 115 million are at high or extremely high risk from tropical cyclones, and almost 160 million are exposed to high or extremely high drought severity.¹⁵

Furthermore, the role of climate change in exacerbating and compounding drivers of insecurity is likely to lead to more children being at risk of violence, exploitation and abuse, in both conflict and non-conflict settings. The Committee on the Rights of the Child has stated that, “[Climate change] is one of the biggest threats to children’s health and exacerbates health disparities...States should, therefore, put children’s health concerns at the center of their climate change adaptation and mitigation strategies.”¹⁶ The Committee further considered this issue during its day of general discussion on the environment on 23 September 2016.

While the Paris Agreement represents a significant advance in terms of formal recognition of children’s rights in the framework of global climate action, consideration of the Convention on the Rights of the Child remains largely absent from climate-related policies, action, investments and dialogue. There is an urgent need for the best interests of the child to be systematically applied in shaping national and international responses to climate change.¹⁷ In particular, children’s right to access information and to be heard in decision-making should be upheld, as well as their access to effective and timely remedy. This will entail the

¹³ Convention on the Rights of the Child, Article 25(2)

¹⁴ Cancun Agreements (2011), *supra* note 8, at Section E (preamble).

¹⁵ UNICEF, *Unless we act now: The impact of climate change on children* (2015).

¹⁶ General comment No. 15 on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), paragraph 50 (2013).

¹⁷ UNICEF written submission to the CRC for the Day of General Discussion on Children’s Rights and the Environment (2016).

provision of tailored information and mechanisms that are child-friendly and language-appropriate.

Persons with disabilities

The Convention on the Rights of Persons with Disabilities (CRPD) calls for an end to harmful stereotypes and to discriminatory policies and practices against persons with disabilities. Further, it recognizes the rights of disabled persons to an adequate standard of living, social protection, gender equality, health and education, among others.¹⁸ Other instruments including the Convention on the Rights of the Child, the Convention to Eliminate All Forms of Discrimination against Women, and the Convention on Economic, Social and Cultural Rights further guarantee the rights of persons with disabilities, including the right to non-discrimination. The preamble to the Paris Agreement calls for States when taking climate action to respect, promote and consider their human rights obligations to all people, including persons with disabilities.¹⁹

Climate change poses unique challenges to persons with disabilities. They are frequently in situations of social, economic, and political disadvantage and may lack equitable access to employment and education or face barriers to participation in decision-making processes. These situations often mean that persons with disabilities have inadequate access to the resources, information and services necessary to adapt to the impacts of climate change.

Approximately 80 percent of all persons with disabilities live in developing countries,²⁰ including 180-220 million youth with disabilities.²¹ Many live in rural areas with limited access to education, employment, health care and social services, as well as challenges to disaster preparedness and resilience. Urban climate change-related risks are also increasing, with widespread negative impacts on people and their health, livelihoods, and assets, as well as local and national economies and ecosystems. The Intergovernmental Panel on Climate Change notes that these risks are amplified for those who live in informal settlements and hazardous areas, which often lack essential infrastructure and adaptive capacity, as well as individuals that are more vulnerable as a result of age, income, disability, or other factors.²²

The situation for women and girls with disabilities may be even more difficult as they have less access to education, employment and resources and face greater barriers to participation in decision-making than both women generally and men with disabilities. These situations often mean that women and girls with disabilities face inadequate access to information including that related to early warning and evacuation measures; inability to access

¹⁸ UN, *Convention on the Rights of Persons with Disabilities*, A/RES/61/106 (2006).

¹⁹ UNFCCC, *Adoption of the Paris Agreement*, FCCC/CP/2015/L.9 (2015).

²⁰ World Bank, *Women with Disability*, <http://bit.ly/ybPKNk> (2009).

²¹ UNDESA-DSPD, *Youth With Disabilities*,

<http://undesadspd.org/youth/resourcesandpublications/youthwithdisabilities.aspx>

²² IPCC, *Climate Change 2014: Impacts, Adaptation, and Vulnerability*, Contribution of the Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (Cambridge University Press 2014).

emergency response food, supplies, or other benefits; and greater risk of violence after disasters.²³

Persons with disabilities are active participants in society and agents of their own rights. In order to protect the rights of persons with disabilities against the harmful impacts of climate change, more must be done to mainstream their rights in climate policies and actions and to ensure their meaningful participation.

Guiding Questions for Discussion

1. Why and how are climate change impacts experienced by indigenous peoples, women, children and persons with disabilities different from the impacts experienced by other persons? How can these impacts be better monitored by government and other actors?
2. Who are the duty-bearers and what concrete actions should they take, including within mitigation and adaptation efforts, to protect rights from impacts of climate change? Further, what actors are responsible for holding duty-bearers accountable and how will they do so?
3. What specific legal obligations and principles apply at both national and international levels (e.g. regarding participation, access to remedy and equity)?
4. What is the relevance of the 2030 Agenda to this discussion, and in particular the Leave No One Behind agenda?
5. What are existing best practices in addressing the needs, rights and contributions of people in vulnerable situations? How can these practices be best used to inform actions and mechanisms for the protection of the human rights of those most impacted by climate change?

Key Resources

- UN Permanent Forum on Indigenous Issues, *Climate change and indigenous peoples*: http://www.un.org/en/events/indigenousday/pdf/Backgrounder_ClimateChange_FIN_AL.pdf
- Minority Rights Group International briefing, *The Impact of Climate Change on Minorities and Indigenous Peoples*, 2008: http://www.ohchr.org/Documents/Issues/ClimateChange/Submissions/Minority_Rights_Group_International.pdf
- UN Women, *Gender Equality, Women's Empowerment and Climate Change*, 2015: <http://www.unwomen.org/en/news/in-focus/climate-change>
- UN Women, *Women, Gender Equality and Climate Change*, 2009: http://www.un.org/womenwatch/feature/climate_change/downloads/Women_and_Climate_Change_Factsheet.pdf

²³ IDA submission for upcoming General Recommendation on gender-related dimensions of Disaster Risk Reduction & Climate Change, CEDAW Committee, 63rd session (2016).

- UNICEF, *Unless We Act Now: the Impact of Climate Change on our Children*, 2015: [http://www.unicef.org/publications/files/Unless we act now The impact of climate change on children.pdf](http://www.unicef.org/publications/files/Unless_we_act_now_The_impact_of_climate_change_on_children.pdf)
- UNICEF written submission to the Committee on the Rights of the Child for the Day of General Discussion on Children's Rights and the Environment, 2016: <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2016/UNICEF.pdf>
- IDA submission for upcoming General Recommendation on gender-related dimensions of Disaster Risk Reduction & Climate Change to 63rd session of CEDAW Committee: <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/ClimateChange.aspx>
- OHCHR's website on human rights and climate change: resolutions of the Human Rights Council on human rights and climate change (see e.g. HRC 29/15), *OHCHR's Key Messages on Human Rights and Climate Change*, and relevant reports and studies of the Office including a *Report on Climate Change and the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health* (A/HRC/32/23). See: <http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>
- Relevant reports from the Special Rapporteur on Human Rights and the Environment and other special procedures mandate holders. See e.g.: <http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>
- UN Environment's publication, *Climate Change and Human Rights*, http://apps.unep.org/publications/index.php?option=com_pub&task=download&file=011917_en
- UNFCCC secretariat, *Guidelines or other tools for integrating gender considerations into climate change related activities under the Convention* (FCCC/TP/2016/2): <http://unfccc.int/resource/docs/2016/tp/02.pdf>
- UNFCCC secretariat, *Gender-sensitive approaches and tools for adaptation to climate change: overview, available tools, good practices and lessons learned*: http://unfccc.int/files/adaptation/application/pdf/5_synopsis_gender.pdf
- UNFCCC secretariat, *Indigenous and traditional knowledge and practices for adaptation: overview, available tools, good practices and lessons learned*: http://unfccc.int/files/adaptation/application/pdf/4_synopsis_itkp.pdf
- ILO, *Sustainable Development Goals: Indigenous Peoples in Focus*, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_503715.pdf
- Forthcoming ILO publication: *Indigenous Peoples and Climate Change: From Victims to Change Agents through Decent Work*