

Submission from the Mary Robynson Foundation – Climate Justice 29th July 2016

Submission to the Committee on the Rights of the Child’s Day of General Discussion: "Children’s Rights and the Environment", with a particular focus on Working Group 2 – Children and the effects of environmental degradation

Introduction

The Mary Robynson Foundation – Climate Justice is a centre for thought leadership, education and advocacy on the struggle to secure global justice for the victims of climate change who are usually forgotten - the poor, the disempowered and the marginalised across the world. The organisation is a platform for solidarity, partnership and shared engagement for all who care about global justice, whether as individuals and communities suffering injustice or as advocates for fairness in resource-rich societies. The Foundation provides a space for facilitating action on climate justice to empower the poorest people and countries in their efforts to achieve sustainable and people-centred development.

The work of the Foundation is guided by its principles of Climate Justice, which can be found on the Foundation’s website www.mrfcj.org/about

The Foundation welcomes the initiative taken by the Committee on the Rights of the Child to have the focus of the 2016 Day of General Discussion on “Children’s Rights and the Environment”, and in particular welcomes the discussion, within Working Group 2 – Children and the effects of environmental degradation, on climate change.

Climate Change and Human Rights

Climate justice links human rights and development to achieve a human-centred approach, safeguarding the rights of the most vulnerable people and sharing the burdens and benefits of climate change and its impacts equitably and fairly. Climate justice is informed by science, responds to science and acknowledges the need for equitable stewardship of the world’s resources. To achieve climate justice it is imperative for any climate action to protect and respect human rights.

Human rights and climate change are linked in three key ways:

- I. Climate change has implications for the full range of human rights, particularly for people living in situations of poverty, marginalisation and vulnerability
- II. A failure to integrate human rights into climate action can undermine people's rights
- III. The integration of human rights into climate change policies can improve effectiveness and result in benefits for people and the planet.

The impacts of climate change on human rights are unequivocal. The most recent resolution of the Human Rights Council (HRC) on human rights and climate change (A/HRC/32/L.34) adopted in July 2016 emphasised that the “the adverse effects of climate change have a range of implications, which can increase with greater warming, both direct and indirect, for the effective enjoyment of human rights” and expressed concern that ‘the adverse effects of climate change are felt most acutely by those segments of the population that are already in vulnerable situations’ and acknowledges “that children are among the most vulnerable to climate change”¹.

Climate change is a threat multiplier; it exacerbates existing issues that are detrimental to the standards of living of communities, particularly children within these communities. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has previously recognised that ‘many of the countries that are highly vulnerable to climate change also have higher proportions of children in their overall population.’²

The Intergovernmental Panel on Climate Change (IPCC) Fifth Assessment Report highlights the current and future impacts of climate change on people in the context of food security, health, access to water and personal security. The report clarifies that while people all over the world are vulnerable to the impacts of climate change, the poor and marginalised are most vulnerable. The IPCC Report³ also highlights that “children, young people, and the elderly are at increased risk of climate related injury and illness”.

This confirms assessments made by the HRC that the impacts of climate change will fall hardest on those people already in vulnerable situations due to factors such as geography, poverty, gender, age, indigenous or minority status and disability. A comprehensive study by the OHCHR in 2009⁴ detailed the adverse impacts of global warming on a spectrum of

¹ HRC (2016) Human rights and climate change; resolution (A/HRC/32/L.34) available at <https://documents-dds-ny.un.org/doc/UNDOC/LTD/G16/135/11/PDF/G1613511.pdf?OpenElement>

² Analytical 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 Report of the Office of the United Nations High Commissioner for Human Rights; Human Rights Council Thirty-second session; A/HRC/32/23

³ Smith, K.R., A.Woodward, D. Campbell-Lendrum, D.D. Chadee, Y. Honda, Q. Liu, J.M. Olwoch, B. Revich, and R. Sauerborn, 2014: Human health: impacts, adaptation, and co-benefits. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 709-754. Available at http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap11_FINAL.pdf

⁴ OHCHR (2009), Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights available at: <http://bit.ly/1KiSvYS>

human rights, including the right to life, the right to adequate food, the right to water, the right to health, the right to adequate housing, and the right to self-determination.

The Foundation would like to highlight two issues in particular in relation to the impacts of climate change on the enjoyment on the rights of the child as agreed in the Convention on the Rights of the Child.

1. Climate Displacement

While the drivers of displacement and crisis migration are many and varied climate change is a threat multiplier, exacerbating the difficulties and challenges faced by the most vulnerable people – including women and children. Rising global temperatures are leading to a range of climate impacts such as drought, floods, changes in seasons and rising sea levels, all of which may contribute to people making the decision, or being forced to move. Climate displacement is a growing issue faced by millions of people who are often the most vulnerable – and least responsible for climate change.

The rights of children are amongst those most severely impacted by the dislocation of these population movements. The UN Secretary General noted in his report on migration that ‘Many migrants and refugees undergo traumatic experiences during their journeys, including imprisonment and physical and mental violence. Children — both those travelling on their own and those travelling with their families — are at particular risk during such journeys, as are pregnant women, older persons and persons with disabilities. The risk of sexual and gender-based violence is high’.⁵

While some progress has been made in relation to climate displacement comprehensive solutions have yet to be found. Those displaced by climate change fall through perceived legal gaps. The impacts of climate change can lead to displacement that does not fit within current international frameworks. In addition gaps in the application of the legal framework mean that the rights of climate displaced people are not always protected, for example their social and cultural rights or their right to self-determination. This is contradictory to many of the Articles enshrined in the Convention.

Although covered by international human rights law, the rights obligations owed to adults and children displaced by climate change are routinely not met. This is particularly the case for women and girl migrants who face increased risks of family separation, psychosocial stress and trauma, health complications, physical harm and injury and risks of exploitation. The Committee on the Rights of the Child has previously acknowledged this in relation to migration in general and the treatment of unaccompanied and separated children and stated that “the enjoyment of rights stipulated in the Convention is not limited to children who are nationals of a State Party and must therefore, if not explicitly stated otherwise in

⁵ UN Secretary General (2016) In safety and dignity: addressing large movements of refugees and migrants Report of the Secretary-General A/70/59 available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/112/62/PDF/N1611262.pdf?OpenElement>

the Convention, also be available to all children – including asylum-seeking, refugee and migrant children – irrespective of their nationality, immigration status or statelessness”⁶.

2. Food and Nutrition Security

In Article 24 2 (C), Health and Health Services, of the Convention State Parties commit 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”. However, the impacts of climate change are having a negative impact on household food and nutrition security. Climate change exacerbates existing inequalities in access to resources, especially for women who are primarily responsible for food production and for feeding their families. Climate change is unjustly and disproportionately threatening food supplies for the most vulnerable including children. Climate change acts as a multiplier, compounding food and nutrition insecurity and making it even harder for poor households to secure their rights⁷.

The IPCC report⁸ also highlights this as an issue and indicates that children are at greater risk when food supplies are restricted, it states that households with children tend to have a lower than average incomes and that food insecurity is associated with a range of adverse health outcomes among young children.

During a Panel Discussion on Climate Change and the Right to Health held in Geneva in April 2016, Dr Cristina Tirado, the Chair of the International Union for Nutritional Sciences task force for climate and nutrition, state that ‘By 2050, climate change was expected to result in an additional 24 million undernourished children’⁹.

The Analytical study conducted by OHCHR on climate change and the right to health has indicated that “changes in the climate have multiple impacts on transmission of diseases, including lengthening their transmission season and expanding their geographic range. WHO has projected that these impacts will result in 48,000 additional deaths from diarrhoeal disease for children aged under 15 years...[and] estimates that climate change

⁶ CRC(2005) General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CR%2fGC%2f2005%2f6&Lang=en

⁷ See more at De Schutter, O., Robinson, M., Shine, T. (2013) Human rights: their role in achieving climate justice and food and nutrition security available at <http://www.mrfci.org/media/pdf/Human-Rights-FNS-Climate-Justice.pdf>

⁸ Smith, K.R., A.Woodward, D. Campbell-Lendrum, D.D. Chadee, Y. Honda, Q. Liu, J.M. Olwoch, B. Revich, and R. Sauerborn, 2014: Human health: impacts, adaptation, and co-benefits. In: Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Field, C.B., V.R. Barros, D.J. Dokken, K.J. Mach, M.D. Mastrandrea, T.E. Bilir, M. Chatterjee, K.L. Ebi, Y.O. Estrada, R.C. Genova, B. Girma, E.S. Kissel, A.N. Levy, S. MacCracken, P.R. Mastrandrea, and L.L. White (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 709-754. Available at http://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap11_FINAL.pdf

⁹ Outcome of the panel discussion on the adverse impact of climate change on States’ efforts to progressively realize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and related policies, lessons learned and good practices Summary report of the Office of the United Nations High Commissioner for Human Rights

will lead to nearly 95,000 additional deaths per year due to undernutrition in children aged 5 years or less by 2030¹⁰.

State Obligations

At COP 21 in Paris, Parties to the United Nations Framework Convention on Climate Change (UNFCCC) reached an agreement to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. The Paris Climate Agreement establishes the need to keep global temperature rise below 2°C and closer to 1.5°C. To date 20 State Parties have ratified the Agreement.

In the Paris Agreement States also acknowledged the link between their obligations to combat climate change and their human rights obligations. This was enunciated in the Preamble of the Paris Agreement¹¹:

“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”.

Integrating human rights into climate action enables governments to realise their obligations under the UNFCCC and human rights law. Actions taken to adapt to the impacts of climate change and to reduce the emissions that cause global warming ultimately protect people’s rights as they strive to avoid dangerous climate change.

However, climate actions designed and implemented without respect for human rights risk undermining people’s rights. There are already examples from the UNFCCC’s Clean Development Mechanism and REDD initiatives that illustrate how climate action can violate human rights. For instance, the construction of the Barro Blanco Dam - a Clean Development Mechanism project in Panama - will flood townships and damage the livelihoods of the Ngäbe-Buglé indigenous peoples reliant on the Tabasará River¹². If human rights obligations are not taken into account when designing climate action they risk having negative impacts on people’s lives especially those in already vulnerable situations.

¹⁰ Analytical 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 Report of the Office of the United Nations High Commissioner for Human Rights; Human Rights Council Thirty-second session; A/HRC/32/23

¹¹ UNFCCC(2015) Paris Climate Agreement. Available at http://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf

¹² MRFCJ (2015) Rights for Action Putting People at the Centre of Action on Climate Change available at <http://www.mrfcj.org/wp-content/uploads/2015/11/MRFCJ-Rights-for-Action-edition-2.pdf>

Ensuring that decisions on climate change are participatory, transparent and accountable is a core Principle of Climate Justice. The opportunity to participate in decision-making processes which are fair, accountable, open and corruption-free is essential to the growth of a culture of climate justice. This applies to all who are impacted including youth. Article 12.1 of the Convention “the Child’s Opinion” highlights the need for participation in decision making processes that affect them also. Participation is also highlighted in relation to the climate change Sustainable Development Goal (13) target 13 b which looks to “ Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries, including focusing on women, youth and local and marginalized communities”.

The Foundation believes that reporting on national progress in linking climate change and human rights can help countries to enhance knowledge, exchange expertise and build capacity, at the international level. In addition, documenting national experiences in linking human rights and climate change can help to promote greater collaboration and coordination between climate change and human rights actors at the national level.

Annex 1: Recommendations

1. States parties should include in their Periodic Reports to the Committee the implications of climate change on the full enjoyment of the Rights of the Child and the steps they are taking to ensure that climate action does not further undermine the rights of children especially those in vulnerable situations.
2. The Committee should consider steps it can take to further strengthen the protection of the rights of children displaced as a result of the impacts of climate change.
3. The Committee should consider sharing lessons learned, possibly through a general comment, on best practice in realising Article 12.1 “the Child’s Opinion” and how this applies to the application of SDG Goal 13 target b.