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November 6, 2015

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Re: OHCHR study on climate change and the right to health

To the Office of the High Commissioner for Human Rights:

Thank you for the opportunity to submit our comments to incorporate into your study on the promotion and protection of the right to health in the context of climate change. We believe your contribution to and participation in the global climate change negotiations is of critical importance, as respect for human rights should be a central objective of national and global climate change policies.

The issues raised in this submission are based on research and advocacy conducted by Human Rights Watch, in particular our reports *“There is no time left”: Climate Change, Environmental Threats, and Human Rights in Turkana County, Kenya*, and *“Marry before your house is swept away”: Child Marriage in Bangladesh* and our participation at the global UNFCCC negotiations.¹

1. The relationship between climate change and the enjoyment of the right to health and any human rights obligations to mitigate and adapt to climate change that can be derived therefrom.

Various UN human rights bodies have emphasized that marginalized groups and individuals such as indigenous peoples, women, and people with disabilities—populations that are already vulnerable to human rights abuses—will face the biggest challenges adapting to a changing climate. According to the Intergovernmental Panel on Climate Change (IPCC), climate change is expected to lead to disproportionate increases in ill-health in developing countries with

¹ Human Rights Watch, *“There is no time left”: Climate Change, Environmental Threats, and Human Rights in Turkana County, Kenya*, October 2015, <https://www.hrw.org/report/2015/10/15/there-no-time-left/climate-change-environmental-threats-and-human-rights-turkana>; Human Rights Watch, *“Marry before your house is swept away”: Child Marriage in Bangladesh*, June 2015, <https://www.hrw.org/report/2015/06/09/marry-your-house-swept-away/child-marriage-bangladesh#dfe3cd>.

low income. In addition, the IPCC has also recognized that climate change will affect disadvantaged people more severely.

Human Rights Watch research has documented that climate change, along with other environmental threats, have significant implications for access to water, food and health of the most marginalized groups and individuals. Changes in the climate are also imposing an increasing burden on governments, especially in countries with limited resources, in their efforts to protect the civil and political rights of vulnerable populations and progressively achieve the full realization of social and economic rights. Further, gains in rights requiring allocation of resources and access to justice, such as the rights to education, gender equality, housing and health, may be more difficult to realize as climate change reduces the availability of resources to the government and adaptation to climate change diverts otherwise available resources.

Climate change will affect the ability of governments to achieve the **right to the highest obtainable standard of health** through increased malnutrition, increased disease and injury due to extreme weather events, and an increased burden of diarrheal, cardiorespiratory and infectious diseases. Diseases that are waterborne, or relate to poor sanitation stemming from lack of water, are likely to be influenced by climate change, increasing risks of cholera and typhoid outbreaks and greater rates of diarrhea and trachoma. The World Health Organization has estimated that climate change will cause 250,000 additional deaths globally each year between 2030 and 2050.

Because climate change can increase the frequency and severity of extreme weather events, such as drought or flooding, it can have a negative impact on government obligations to progressively realize the **right to water**. This means that states will need to plan for adaptation measures. The obligation to address the right to water in a way that is participatory, accountable and non-discriminatory is an immediately binding duty. According to the Committee on Economic, Social and Cultural Rights this requires the adoption of comprehensive and integrated strategies and plans including “assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes.”

Increasing temperatures and extreme weather events impact agricultural production and governments’ ability to progressively achieve the **right to adequate food**. States have a core obligation to take the actions necessary to mitigate and alleviate hunger as provided for in article 11(2) of the International Covenant on Economic, Social and Cultural Rights, even in times of natural or other disasters. While some economic, social and cultural rights are subject to progressive realization, the obligation to respect, protect, and fulfill human rights in a participatory, accountable and non-discriminatory way is of immediate effect. This includes paying sufficient attention to groups of individuals that suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations.

The UN and other experts have observed that **women and girls** are disproportionately harmed by climate change, for reasons including the fact that they are likely to have been disadvantaged already and thus more vulnerable, women and girls may have responsibilities such as collecting water that are particularly affected by climate change, and displacement may be especially risky for women. Our research highlights another aspect of this inequality—ways in which families struggling to cope with climate change may adopt strategies that victimize women and girls. In our research in Bangladesh, we saw repeated clear examples of families coping with natural disasters by marrying off their daughters at earlier ages than they otherwise would have. This is just one example, but it highlights the need for greater awareness of, research into, and strategies to prevent women and girls being “sacrificed” to help their families cope with climate change.

Governments should take several steps in response to the challenges it poses to the enjoyment of human rights. First, governments should recognize that the impact of climate change could negatively affect their ability to respect, protect and fulfill rights to health, water, food and livelihood, and security. Second, governments should conduct human rights risk assessments to identify communities and individuals particularly vulnerable to the impacts of climate change. Third, governments should take steps to reduce this vulnerability through adaptation plans that integrate human rights standards and are developed through meaningful participation and access to all relevant information for all affected groups. Further, adaptation interventions should include appropriate accountability mechanisms. Fourth, governments should refrain from taking actions that could heighten the vulnerability of people to human rights abuses exacerbated by climate change. Fifth, countries should design and implement measures to facilitate adequate adaptation to climate change and cooperate in the development, application and diffusion of related technologies.

2. Summary of any relevant data on the impacts of climate change on the enjoyment of the human right to health including its underlying determinants (education, water and sanitation, food, housing, etc.), disaggregated to the extent possible.

Human Rights Watch research carried out in Kenya and Bangladesh documented some of the impacts of climate change on the enjoyment of the human right to health and its underlying determinants.

Kenya:

Turkana County is one of Kenya’s poorest regions, persistently facing conflict, drought, chronic malnutrition and some of the poorest health indicators in Kenya. A majority of the Turkana people, an indigenous people dependent on herding and fishing, rely on unimproved water sources for drinking and fewer than 10 percent

have access to improved sanitation facilities. Local data collection indicates that temperatures have increased by 2 to 3°C (3.6 to 5.4°F) between 1967 and 2012. Rainfall patterns seem to have changed and communities report longer and more severe droughts. In addition, nearby industrial and agricultural developments are predicted to have a devastating effect on the amount of water flowing to Lake Turkana. Not only is Lake Turkana the center of livelihood for the Turkana people, it also has a significant cooling effect on the region, regulating temperatures and precipitation, and preventing desertification. The impacts of climate change and other environmental changes are threatening the authorities' ability to ensure the Turkana people's right to health, in addition to other related rights to water, food and livelihood, and security as well as their specific rights as an indigenous people.

In Turkana, access to water for consumption, basic household needs, and livestock is critical for the lives and livelihoods of the Turkana people. However, growing water demand brought on by population growth, unpredictable rainy seasons and longer and more regular droughts have put increased pressure on water resources in recent years. In addition, the predicted drop in the water level of Lake Turkana could have a major impact on water availability for years to come. Longer and more severe droughts are forcing women and girls to walk longer distances to reach even dry riverbeds. Parents are unable to provide their children safe water for drinking and hygiene, and children already suffer from a wide range of illnesses, including stomach aches and diarrhea, malaria, malnutrition and trachoma, all of which their parents claim are made worse by the most recent droughts. Ongoing and projected changes in climate will make full realization of the Turkana people's right to the highest attainable standard of health much more difficult.

In Turkana County, Kenya, livestock herding and fishing, the Turkana's two main livelihoods, are extremely susceptible to changes in environment. While people in Turkana County have long experienced cyclical drought and famine, the impacts of climate change experienced through more intense and frequent droughts and a rainy season that has been shorter in recent years have reduced grazing lands, and limited water sources, necessary for dry season livestock herding.

The acute physical strain on livestock created by the lack of water and adequate grazing land makes livestock weaker and more prone to disease, and less suitable for production of milk, one of the staples of the Turkana diet. Diminishing access to grazing land and water also push the Turkana into increased conflict over remaining resources, which can lead to loss of livestock from raids by other ethnic groups.

The other critical livelihood in Turkana is fishing, particularly when livestock have been stolen or die from prolonged droughts. Reductions in Lake Turkana's water levels will likely decimate Lake Turkana's fishery, which will limit the Turkana people's ability to use the lake as a buffer against increased periods of drought that destroy livestock herds. While food insecurity has plagued Turkana for generations,

changing climate and other environmental threats are exacerbating this already tenuous situation.

Bangladesh:

The IPCC describes Bangladesh as one of the countries most vulnerable to climate change, “in terms of its exposure to extreme events and lack of capacity to cope and adapt.” According to a World Bank study from 2013, Bangladesh is considered an “impact hotspot” with extreme river floods, more intense tropical cyclones, rising sea levels, extraordinarily high temperatures, and declining crop yields. Experts also warn that the high risk of inundation resulting from increased river flooding and tropical cyclone surges will mostly affect areas with high poverty rates. People living in disaster-affected areas in Bangladesh often live in extreme poverty before disaster strikes. Families interviewed by Human Rights Watch indicated that a cyclone, another flood, or an especially high or long flood, or the arrival of river erosion at their doorstep can push a family from a situation where they are barely managing to get from one day to the next to one where child marriage becomes part of a desperate survival strategy.

Families described a variety of reasons for marrying off daughters early in the anticipation of or in the wake of disaster. Some simply did not have enough to eat and saw marrying a daughter off as one less mouth to feed.

There seemed to be a particular risk of earlier marriage because of disaster among families living in the path of river erosion, where the disaster is predictable several years in advance (unlike a cyclone) and will lead to permanent destruction of the family’s home and land (unlike cyclical flooding) and resulting displacement. Families worried that once they were displaced they would have difficulty protecting their daughters from sexual harassment and sexual violence, and they saw marriage as a way to forestall these dangers. Some parents talked about how displacement and the family’s loss of the status of landowners would harm their daughters’ marriage prospects. They argued that they needed to arrange a marriage now, while they still lived in a community where they knew people and were respected.

As has been well documented globally, child marriage is a violation of the right to health, as it is linked with heightened risk of early pregnancy, domestic violence, and termination of education.

3. Existing national commitments, legislation and policy frameworks related to climate change mitigation and adaptation including any specific measures intended to prevent the worst impacts of climate change on the right to health

With respect to Turkana County, Kenya, the national and local governments have acknowledged the impact climate change has had and will have on people’s access to water, food, health, livelihood and security. The local government has set

ambitious goals to expand the number of health facilities and personnel, increase access to education, and address widespread food and water insecurity. However, concrete plans and projects have not yet materialized, and staffing of health facilities remains problematic. Kenya has also made several efforts towards developing a national policy addressing the effects of climate change, including the Kenya National Climate Change Response Strategy (NCCRS, 2010) and the Kenya National Climate Change Action Plan (KNCCAP, 2013). The NCCRS acknowledged the disproportionate impact of climate change across communities, groups and sectors and recommended the creation of vulnerability assessments and impact monitoring, accompanied by a policy, legal and institutional framework to combat climate change. While the NCCRS did mention the “urgent needs of vulnerable socioeconomic groups”, it did not propose any concrete steps to identify and address those vulnerabilities and ways to mitigate the impact of climate change on marginalized groups and individuals. The NCCAP also names several groups and individuals that are particularly vulnerable to climate change (including urban poor, women, children, and pastoralists). It also acknowledges that states parties to the UNFCCC are required to prepare and implement a National Adaptation Plan, and said that such a plan would be finalized during 2013. However, the Kenyan government told Human Rights Watch that the National Adaptation Plan has not yet been finalized. The government also drafted a climate change bill, intended to coordinate, monitor and evaluate all efforts to address the impact of climate change, and has as its centerpiece, the creation of a Climate Change Council. Over the past five years the government has presented to Parliament several bills, the last of which went through the National Assembly in March 2015 and the second reading in the Senate in July 2015. At the time of writing, the bill is still awaiting adoption by the Senate, and the signature from the president. The Kenyan government is also pursuing climate change funding within and outside of the UNFCCC framework and multilateral funds. Disbursement and tracking of these funds remains problematic. Additionally, concerns have been raised about how decisions as to the proportion of funds dedicated to mitigation versus adaptation efforts are made.

In Bangladesh, the National Adaptation Plan of Action (NAPA) submitted to the Secretariat of the United Nations Framework Convention on Climate Change in 2009 acknowledged the impact of climate change in Bangladesh and recognized that “adverse impacts from climate change will fall disproportionately on [the] most vulnerable groups within the country as a whole as well as within each vulnerable region of the country.” The NAPA specifically identifies poor women and children as most vulnerable and states that “[a]ny attempt to adapt or to cope with the adverse impacts of climate change will need to have special emphasis on protecting and helping these most vulnerable groups.” Similarly, the Bangladesh Climate Change Strategy and Action Plan, the primary national climate change policy document for 2009 through 2018, states that “[t]he needs of the poor and vulnerable, including women and children, will be mainstreamed in all activities under the Action Plan”. However, none of these disaster reduction and climate change plans mention child

marriage or target any interventions at the link between natural disasters and child marriage.

Once again, thank you for the opportunity to submit comments, and we hope you will incorporate the above observations in your upcoming report.

Sincerely,

A handwritten signature in black ink, appearing to read "Katharina Rall". The signature is fluid and cursive, with a long horizontal stroke at the end.

Katharina Rall
Research Fellow, Health and Human Rights Division

A handwritten signature in black ink, appearing to read "Heather Barr". The signature is cursive and includes a horizontal line underneath the name.

Heather Barr
Senior Researcher, Women's Rights Division