

Global warming, a challenge to human rights

After the IPCC and NGOs, international human rights organisations expressed their alarm. In an open letter, the mandate-holders of the Special Procedures of the Human Rights Council insisted that climate change was “one of the greatest human rights challenges of our time”.¹ The challenges will be even greater for future generations who will suffer far more from the irreversible losses and damage.

Natural disasters, conflicts that stem from the race for natural resources, forced displacements, the influx of climate change refugees and deteriorating climate conditions that deprive people of their livelihood have caused and can cause directly or indirectly some of the world’s largest scale and most serious human rights violations, and particularly in the areas of the rights to health, water, food, housing and life.

Many studies have demonstrated the extent to which climate change will increase droughts, floods and hurricanes, which will in turn lead to an increase in disease outbreak, malnutrition and undernourishment. According to the United Nations Environment Programme, “...close to 50% of the world population will be at risk of undernourishment by 2050 due to increased demand and to climate change (in a scenario of global warming of 2°C) against around 30% without climate change”.²

All countries are affected by climate change, but a study by the United Nations High Commissioner for Human Rights shows that the vast majority of people affected live in developing countries.³ Moreover, the harmful effects of climate change are felt most strongly by **populations that are already vulnerable** because of geographical location, poverty, gender and age, or because of their situation as indigenous people or as members of a minority group.

Women will be particularly affected by climate change related violations. They are already those who are hardest hit by extreme climate events and environmental and economic changes.⁴ According to the UNDP⁵, in cases of natural disaster the risk of death is 14 times greater for women than for men. According to UNICEF, forecasts of climate-related disasters

1- Open letter from the Special Procedures mandate-holders of the Human Rights Council to the States Parties to the UNFCCC on the occasion of the meeting of the ad hoc working group on the Durban Platform for Enhanced Action in Bonn, *A new climate change agreement must include human rights for all*, 17 October 2014.

2 - UNDP Report and WHO Aide-mémoire on global warming, no. 266, August 2014.

3 - See Report of the United Nations High Commissioner for Human Rights, *Analytical study on the relationship between human rights and the environment*, A/HRC/19/34, 16 December 2011.

4 - See Opinion of the French National Advisory Commission on Human Rights (*Commission nationale consultative des droits de l’homme – CNCDH*) adopted on 16 April 2015: “...women’s livelihood depends greatly on natural resources (water, farmlands, fuelwood, fish) that are heavily dependent on the vagaries of nature and on climate change (land and forest degradation, lower yields, etc.). Furthermore, the resources and options that people have to withstand these shocks and changes are also highly dependent on gender-related social expectations and standards. Women’s limited control over and access to these resources, and the obstacles that they encounter in exercising their rights make it more difficult for them to adapt to climate change. Although women produce most of the food in developing countries, only a handful hold titles to the land. Moreover, migration, mainly that of men, increases the workload and responsibilities of women who remain at home in the rural areas and makes them more vulnerable to gender-related violence”.

5 - See United Nations Development Program, *Gender and Disasters*, October 2010, The Global Gender and Climate Alliance, *Overall view of the issue of Gender and Climate Change*

this decade put 175 million children at risk.⁶

Indigenous peoples are also directly affected, their rights are being attacked - especially with respect to ancestral lands - by extractive, forestry and hydroelectric industries, and by dam construction, all of which are detrimental to the quality of the soil, water, the environment, climate and health.⁷

Furthermore, unilaterally and hastily decided measures to protect the environment or fight against climate change, for the sake of sustainable development, affect the living conditions of **people in precarious situations or extreme poverty**. In developed countries, when homes are poorly insulated, families in the most precarious situations bear the brunt of increases in energy costs. In developing countries, the ban on charcoal makes life harder for the poorest families.

In sum, the people who are the most vulnerable and the least able to cope and deal with the consequences of climate change are the most likely to suffer from irreversible loss and damage (of land and cultural heritage, for example). We are confronted with a paradoxical situation: the people who contribute the least to global warming are the ones who suffer the most, and who will continue to suffer the most.

The men and women who defend human rights - especially in a context where the environment is being damaged, land rights defenders, whistleblowers, NGOs and unions are being targeted, especially when they fight to put an end to violations committed by economic agents. In its 2014 Annual Report, the Observatory for the Protection of Human Rights Defenders (FIDH-OMCT) describes the situation of land rights defenders. The Observatory reported 112 attacks or threats of attack against land rights defenders, forty-three (43) assassinations and 123 cases of harassment involving land rights defenders. Impunity for acts committed against human and environmental rights defenders is equally alarming. Between 2011 and 2014 the Observatory examined 106 cases of violations committed against 282 land rights defenders and 19 NGOs; over 95% of these cases remained unpunished.⁸ The United Nations Special Rapporteurs on the situation of Human Rights Defenders also reported on the situation of these defenders.⁹

The international human rights protection system provides a frame of reference

Given this situation, rife with threats, the international human rights protection system offers the international community a normative framework for climate-related negotiations that clearly establishes stakeholders' duties and provides points of reference and indicators that can and should be used to evaluate policies.

International and regional human rights protection mechanisms set out States' and stakeholders' duties and responsibilities, and particularly those of financial institutions and companies.¹⁰ The Human Rights Council system of special procedures cover human rights

6 - See UNICEF report on Humanitarian Action, 2009.

7 - UN Committee on the Elimination of Racial Discrimination (UN CERD), General Recommendation no. 23/1997 on Indigenous peoples. See also UN CERD final comments on several states in Latin America.

8 - Report of the aforementioned Observatory. According to Global Witness (*Global Witness: Deadly Environment: The Dramatic Rise in Killings of Environmental and Land Defenders*, 2014) out of approximately one thousand cases registered involving land rights defenders between 2002 and 2013, only 1% of the perpetrators of murder have been tried, convicted and punished.

9 - Jilani, Hina, UN Human Rights Council, *UN Human Rights Council: Report Submitted by the Special Representative of the Secretary-General on Human Rights Defenders*, 24 January 2007, A/HRC/4/37, available at: <http://www.refworld.org/docid/461e3e162.html> [accessed 28 November 2015]. See also Forst, Michel UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights defenders*, 29 December 2014, A/HRC/28/63, available at: <http://www.refworld.org/docid/550ffe44.html> [accessed 28 November 2015]

10 - See: UN Human Rights Council, *Report of the Independent Expert on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: preliminary report*, 24 December 2012, A/HRC/22/43. Retrieved at: <http://www.refworld.org/docid/5146eac82.html> [accessed 28 November 2015]

and related issues, among them the rights to health, food, water, housing, extreme poverty as well as international convention bodies and regional protection mechanisms; they have reported on human rights violations by companies and on States' duties and responsibilities, including their extra-territorial obligations, and vis-à-vis companies.

Human rights experts should be able to participate in climate discussions. This is the aim of the Geneva Pledge that was signed on 13 February 2015 by fourteen countries.¹¹ This initiative needs to be followed through and used more frequently so that the voice of civil society can be heard, especially given the work done by special interests groups representing companies that is undermining negotiations.

What can we do?

A healthy environment is essential to the fulfilment of human rights. Similarly, the introduction of human rights considerations into environmental policies is essential to the protection of the populations affected by global warming and to the well-being of future generations. In December 2015, in the context of the UNFCCC COP21, States need to explicitly include human rights in their environmental protection policies and in their economic and development policies in general, with a view to achieve the following:

- ≡ to guarantee that States' obligations to respect, protect and implement human rights become the points of reference used to evaluate national and international environmental protection policies, including climate change mitigation policies;
- ≡ to call for the establishment and strengthening of an effective and transparent mechanism to monitor the climate convention and that is fully supported by existing human rights mechanisms, in particular through the creation of the "working group on human rights and climate change", on the UNFCCC COP 21, to monitor and evaluate the work that is done and the work that needs to be done to protect those human rights that maybe affected by climate-related actions;
- ≡ to guarantee the creation of a UNFCCC complaints mechanism that adequately punishes human rights violations committed as a result of the implementation of environmental protection policies and that ensures genuine access to justice for victims;
- ≡ to support the universal ratification of the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters and to guarantee that the States comply with their obligations to guarantee the right to information and to free, prior and informed consent (FPIC) of indigenous peoples as well as with the right to information and participation of affected communities;
- ≡ to introduce human rights protection clauses in trade and investment agreements signed between States by developing ex-ante and ex-post impact studies on human rights linked to independent complaints mechanisms that can be used to ultimately change agreements that detrimental to human rights;
- ≡ to develop national and international legal frameworks for the prevention and compensation of violations stemming from the activities of businesses, including cross-border businesses, by setting up robust and effective implementation mechanisms.

¹¹ - The other signatory States are: Costa Rica, Chile, Guatemala, Ireland, Marshall Islands, Kiribati, Maldives, Micronesia, Mexico, Palau, Panama, Peru, Philippines, Samoa, Sweden, Uganda and Uruguay.