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Climate Change and Human Rights

Despite some dispute on details of the forecast warming, there is no doubt that we are heading for climate changes that are largely the result of human activity. Climate change will lead to a steadily worsening situation with respect to access to land, water, and resources, and this, in turn, will trigger massive movements of refugees, violent conflicts, and wars. The Global Humanitarian Forum, founded by former UN Secretary General Kofi Annan, published a study in 2009 which estimates that the effects of climate change already felt today are resulting in 300.000 deaths each year in the world's poorer regions, with a further 300 million people directly affected in some way. The report predicts that four billion people are vulnerable to the effects of climate change and 500 million at extreme risk. Also the nations of the Global North find themselves faced with lasting and omnipresent problems resulting from the ecological, economic, and social consequences of hurricanes, floods, and droughts. The European heat wave of 2003 in particular, which caused thousands of deaths across Europe, caused the public to sit up and take notice.

Most of the world's nations have by now included global warming and the immediate effects of climate change on their political agendas. They are currently wrangling over a climate treaty that should finally enact drastic cutbacks in the carbon dioxide emissions produced by industrial as well as a handful of developing nations. The international community also finds itself in tough negotiations over financial transfers from the global North to the global South that are necessary to help developing nations to adapt to the effects of climate change.

The COP 15 in Copenhagen should have reached an agreement on the future of the climate regime after expiry of the first commitment period of the Kyoto Protocol (KP) in 2012. The meeting in Copenhagen was supposed to agree on post-2012 commitments of the industrialised countries (called Annex I countries under the United Nations Framework Convention on Climate Change), as well as nationally appropriate mitigation actions of developing countries, increased actions on adaptation to climate change, and financial and technological cooperation. The result of Copenhagen was a "*Copenhagen Accord*", negotiated mainly by USA, China, India, Brazil, and South Africa, and then opened to signatures. The accord is not a binding document and calls for voluntary reductions to be communicated by January 31, 2010. Most civil society organisations and many states, especially the poorest, criticised the accord for being not fair, not ambitious, not binding.

A different approach in terms of introducing the human rights provisions into the climate negotiations has been started by island states at the UN Human Rights Council (HRC). The chief impetus for this initiative came from the Maldives, supported mainly by other Pacific

and Caribbean island nations that will be physically threatened by rising sea levels over the coming decades. Even the agreement to limit earth warming to maximally 2° Celsius threatens the survival of some islands. Thus, a human rights approach distinguishes the level of impacts in relation to concretely effected states and people vis-a-vis aggregated global data. Such an approach also helps to focus on the most vulnerable. It further stresses the need to design and implement instruments for climate protection (e.g. CDM or REDD) in conformity with human rights standards.

In March 2008, they launched Resolution A/HRC/RES/7/23 (*Human rights and climate change*), which requested the Office of the UN High Commissioner for Human Rights (OHCHR) to carry out a detailed analytical study focusing on the relationship between human rights and climate change. With resolution A/HRC/RES/10/4 and a panel discussion in 2009, human rights have emerged as a platform to particularly give vulnerable groups a voice already affected by climate change as well as to allow countries of the Global South to express the impacts of climate change in terms of binding duties and the need for international regulations. The urgency of the problem is inherent in the instrument at hand: the direct protection of fundamental rights.

In the context of climate change, these are predominately the rights to life and health, food and water, housing and property, a healthy environment, and – in the case of indigenous peoples – the preservation of specific cultural characteristics in cases of resettlement and migration. In addition, political and civil human rights should give everyone the same right of freedom of information and opinion, participation in political opinion-forming and decision-making processes, guarantee their right to dissent or dispute the approach taken, and enable access to the legal review of decisions. The guarantee of these rights is integral to the formulation of a climate policy that seeks to take account of authentic interests of local and in particular threatened population groups. In particular, local populations find themselves in a vicious circle whereby limited access to resources and education and a poorly developed infrastructure amplify their vulnerability to climate change and the damage it causes and vice versa.

The report of the OHCHR (Document A/HRC/10/61; *Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights*) takes up the disputed principle of extraterritorial state obligations by quoting General Comment No. 3 of the UN Committee on Economic, Social, and Cultural Rights, that affluent nations are obliged to assist poorer nations. According to this General Comment No. 3, states are requested not to exert any influence on other countries that would negatively affect human rights, to prevent private companies from doing the same – insofar as they are subject to national laws – to reliably provide international assistance and co-operation, and to guarantee that human rights will be adequately anchored in international agreements and that no such agreements shall harm human rights. Although western and industrialised nations accept this obligation to a certain extent, they reserve the right to provide assistance voluntarily and within the framework of bilateral relationships.

A human rights-based approach is not an all-purpose instrument that can automatically solve the fundamental problems posed by climate change. Nevertheless, in relation to the upcoming sessions of the UN Human Rights Council, we expect from the German government to:

- * support politically as well as financially the Special Procedures in order to be able to carry out studies of the effects of climate change and to include their findings in their reports to the Council;
- * support a next step in terms of a joint report by various mandate holders representing the rights to food, adequate housing, drinking water, and sanitary facilities;
- * endorse a second step in terms of a new mandate for Special Procedures in the Council which could systematically address the effects of climate change;
- * re-think the current reluctance on extraterritorial obligations.