



# Human Rights and Climate Change<sup>i</sup>

## Impacts of Climate Change on Implementation of Human Rights to Food and Water

Already today, climate change has visible and predominantly negative impacts on global crop yields and the availability of potable water. The situation will further deteriorate in the future. Climate change therefore poses substantial challenges for the implementation of the human rights to food and water.

The increase in temperature will reduce the production of many food products, for some it will become completely impossible to grow in their traditional production areas. Furthermore, climate change will shift rainfall patterns, leading to many areas with low rainfall to experience a further decline in precipitation in the future. As a consequence, the productivity of rain-fed agriculture will significantly decrease in some regions of the world.

Changing rainfall patterns will also substantially affect the availability of drinking water. The natural seasonal melting of snow in summer, the driest season of the year, supplies water to many rivers which are central to freshwater supply. However, the melting of glaciers caused by global warming will lead to the disappearance of these natural water reservoirs and therefore to water shortages. In addition, the sea-level rise increases the salinity of groundwater and soils in coastal regions and small islands.

The impacts of climate change will be much more severe in the tropical and sub-tropical climate zones, where the majority of developing countries

are located, than in the temperate zone, where there are mostly developed countries. This implies that precisely those people who have contributed least to global warming will be most strongly affected by its impacts.

Furthermore, many people who live in those regions lack the physical, social, economic and technological resources necessary to adapt to the changes that will be brought about by climate change. Especially vulnerable are people and segments of population who are socially disadvantaged and already suffer from hunger and poverty due to their gender, age, disease or belonging to a minority group. These are predominantly rural communities, of which small family farmers, landless peasants, day-workers and nomads are most vulnerable. If gender-specific differences are taken into account, it is women and girls who are particularly exposed to the adverse impacts of climate change.

## Foundations and Principles of International Environmental and Human Rights Law

The foundations of international climate change law were laid at the United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro in 1992. One of its results was the United Nations Framework Convention on Climate Change (UNFCCC), which can be regarded as the “constitution” of international climate policy. Further documents produced at the “Earth Summit” were the Rio Declaration on Environment and Development, Agenda 21 and the Convention on Biological Diversity.

International environmental law is based *inter alia* on the following principles:

- The *polluter pays principle*, stating that the polluter should, in principle, bear the cost of pollution (Rio Declaration on Environment and Development, Principle 16).
- The *principle of limited territorial sovereignty*, according to which States parties have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (Preamble of the UN Framework Convention on Climate Change; Rio Declaration on Environment and Development, Principle 2).
- The *principle of common but differentiated responsibilities*, stating that industrialized countries should assume the leadership of the fight against climate change and its negative effects (UN Framework Convention on Climate Change, Art. 3 [1]).
- The *precautionary principle*, according to which lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation (UN Framework Convention on Climate Change, Art. 3 [3]).

The main pillar of the human rights system is the International Bill of Human Rights of the United Nations, which consists of the Universal Declaration of Human Rights adopted by the General Assembly in 1948, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both adopted in 1966.

The resulting obligations of States are explicitly stipulated in the treaties and result from the further work of the organs of the United Nations human rights system.

In essence, there are three main levels of obligations:

- The obligation to respect means that States must refrain from undertaking measures, as for example displacements, which curtail the enjoyment of human rights (Committee on Economic, Social and Cultural Rights – CESCR– 1999; 2002).

- The obligation to protect requires States to take steps in order to prevent both corporations and individuals from abusing human rights (CESCR 1999; 2002).
- The obligation to fulfill means that States must take positive action to achieve progressively the full realization of human rights. For instance, they have the duty to facilitate people's access to water and other resources necessary to assure their livelihood. If an individual or a group of people are not able to realize their rights to adequate food and water with their available means, due to causes they cannot influence, then States are obliged to take immediate action to correct such situations (CESCR 1999; 2002).

Further relevant key obligations of States are:

- The obligation to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the International Covenant on Economic, Social and Cultural Rights (ICESCR, Art. 2, para. 1).
- The obligation to act promptly and expeditiously, making an efficient use of the available resources, in order to undertake specific and purposeful measures to ensure the enjoyment of human rights (CESCR 1990).
- The obligation to guarantee, regardless of the extent of available resources, that the rights to food and water can be exercised without discrimination (prohibition of discrimination). In addition, special attention must be given to members of vulnerable and disadvantaged segments of population (CESCR 1990).
- The obligation of States to guarantee the access to at least minimum levels of food and water to all people under their jurisdiction (CESCR 1990).
- The obligation to facilitate the participation in the political decision-making process of those people who are affected in their rights by the adopted policies (CESCR 1999).

It should be noted that the obligation to co-operate internationally is usually given a subsidiary role. In the first instance, States are bound to implement international human rights on their own territories. However, it can be argued that due to their global scale, some problems require from the outset joint action of the international community with a view to protecting human rights.

The task of the international community is to make the climate regime consistent with the existing human rights obligations of States.

## **Emissions Reduction and Human Rights**

Climate change is caused by human activities and has extensive negative impacts on the fulfillment of human rights. International human rights therefore constitute an obligation of States to promptly undertake measures to reduce greenhouse gas emissions so as to prevent further negative impacts of global warming on the international protection of human rights (*do no harm* approach). Furthermore, the human rights perspective requires state actions to focus on those who are most vulnerable to human rights abuses. Thus, international environmental law must mandate and realize emissions reductions of a magnitude that is adequate to protect the rights of these people from climatic changes.

The need for large emissions reductions prompts fundamental questions about distributive justice, given that hundreds of millions of people in developing countries are still affected by hunger, poverty and lack of access to proper sanitation, among others. Although it will hardly be possible to fulfill their basic needs without an expansion of their energy consumption, it would not be sustainable to satisfy their growing energy demand by using fossil energy sources. In order to fulfill the human rights of people in poor countries, it is therefore indispensable to build a system of green energy supply. Most Southern States, nevertheless, will not be able to do this fully on their own.

According to the *principle of common but differentiated responsibilities* stipulated in the UN Framework Convention on Climate Change and to the obligation to co-operate internationally recognized in the ICESCR, it is the duty of industrialized countries to take the lead in the reduction of emissions, as well as to assist developing countries to reduce their emissions, through financial aid and the transfer of low-carbon technologies.

Specific mechanisms and measures to reduce emissions must respect human rights, too. Resulting from their obligation to respect and protect, States must ensure that such measures – as for instance the expansion of agrofuels, the construction of dams or the utilization of forests as carbon stores – do not curtail or infringe the enjoyment of human rights of people both on their own national territories and beyond. Measures to protect the environment shall not lead to people

losing their means of existence; they rather must recognize and respect the traditional rights of indigenous people and local communities to land and other resources. When affected by such measures, these groups shall be fully and effectively involved in all levels of decision-making processes. In addition, a mechanism to settle potential conflicts should be established.

## **Obligations of States to Protect Human Rights from the Impacts of Climate Change**

In addition to minimizing the impacts of climate change, States must protect people living on their territory from these impacts and ensure the realization of minimum essential levels of the rights recognized in the ICESCR, also under changing climatic conditions. Each State must therefore conduct studies on the regional impacts of climate change. States must then on this basis take steps to improve their possibilities to adapt better to climate change, giving special attention to the vulnerable segments of population. Furthermore, States are obliged to ensure access to information on short-term and long-term climatic changes to all people (establishment of an early-warning system), as well as to facilitate their participation in the political process in which the adaptation measures are developed and decided. Finally, States must also guarantee that all persons whose individual rights are being affected by the impacts of climate change are protected by the law, i.e. that they are able to assert their rights before a court.

Given that many developing countries are particularly hit by the negative impacts of climate change and that the costs of adaptation greatly exceed their financial means, they depend on international co-operation to fulfill their human rights obligations. States committed themselves to engage in such co-operation in Article 2 of the ICESCR. The human rights obligation of industrialized countries to help developing countries, through financial aid and technical co-operation, to protect their citizens from the impacts of climate change is supported by the environmental law *principle of common but differentiated responsibilities*, enshrined in the UN Framework Convention on Climate Change. Measures undertaken by the international community to increase the adaptive capacity of people to climate change must be oriented towards human rights standards.

Finally, the international community must find a solution to the issue of climate refugees. More and more people are forced to leave their homes as a result of extreme weather events and floods.

However, according to present international law these people currently do not have a legal status and are not under the responsibility of the Office of the United Nations High Commissioner for Refugees. This gap in international law must be closed without delay.

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**FIAN International** [www.fian.org](http://www.fian.org) was founded in 1986 and is the international human rights organization that advocates the realization of the right to adequate food. It is a non-political, not-profit organization with consultative status to the United Nations and sections and members in more than 50 countries. FIAN Germany is one of its national sections.

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