

**PUBLIC CONSULTATION ON THE RELATIONSHIP BETWEEN HUMAN RIGHTS OBLIGATIONS AND ENVIRONMENTAL PROTECTION, WITH A FOCUS ON CLIMATE CHANGE**

**10:00-13:00  
17 JULY 2014  
Room XXIII  
PALAIS DES NATIONS**

**1. Background**

The Independent Expert on human rights and the environment is mandated by the Human Rights Council (Resolution 19/10) to study the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, and to identify and promote best practices on the use of human rights obligations and commitments to inform, support and strengthen environmental policy making.

To inform this work, the Independent Expert has held a series of consultations in different regions of the world devoted to particular thematic issues. Previous consultations have focused on procedural rights and duties in environmental policy making, the relationship between environmental protection and substantive rights and duties, environmental protection and the human rights obligations related to members of groups in vulnerable situations, how international institutions and mechanisms can integrate human rights with environmental protection, constitutional rights to a healthy environment, and the protection of environmental human rights defenders.

This consultation builds on the previous consultations by continuing to examine the relationship between human rights obligations and environmental protection, with a focus on climate change. It also responds to the Human Rights Council resolution adopted in June 2014, which among other things encouraged special procedures mandate holders to give consideration to the issue of climate change and human rights within their respective mandates.

**Human rights and climate change**

There can no longer be serious doubt that climate change, like other environmental harms, can and does interfere with the enjoyment of human rights recognized and protected by international law. The effects of climate change on human rights have been described by special rapporteurs appointed by the Human Rights Council,<sup>1</sup> and the Council itself has repeatedly recognized the grave implications climate change has for human rights.<sup>2</sup> A 2009 report prepared by the Office of the High Commissioner for Human Rights at the request of the Council detailed the adverse impacts of climate change on a spectrum of human rights,

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<sup>1</sup> See e.g. *Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context*, UN Doc. A/64/255 (2009); *Climate Change and the Human Rights to Water and Sanitation: Position Paper*, available at [http://www.ohchr.org/Documents/Issues/Water/Climate\\_Change\\_Right\\_Water\\_Sanitation.pdf](http://www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf).

<sup>2</sup> See e.g. UN Human Rights Council res. 10/4, ¶ 3 (Mar. 25, 2009), U.N. Doc. A/HRC/10/4.

including the rights to life, food, water, the highest attainable standard of health, housing and self-determination.<sup>3</sup>

The question then arises: what *duties* does human rights law place on States with respect to climate change? In his report to the Human Rights Council presented in March 2014, the Independent Expert summarized statements of a wide range of human rights bodies on the human rights obligations relating to environmental harm generally. The report concluded that these obligations include procedural obligations of States to assess environmental impacts on human rights and to make environmental information public, to facilitate participation in environmental decision-making, and to provide access to effective remedies, and substantive obligations to adopt legal and institutional frameworks that protect against environmental harm that interferes with the enjoyment of human rights, including harm caused by private actors. Moreover, States have a general requirement of non-discrimination in the application of environmental laws, and they may have additional obligations to members of groups particularly vulnerable to environmental harm, such as women, children and indigenous peoples.

However, the sources reviewed did not provide much detail on how these obligations apply to harm caused by climate change. In the words of the report, “Although it is clear that States have an obligation of international cooperation, which is of obvious relevance to global environmental problems such as climate change, clarification of the content of extraterritorial human rights obligations pertaining to the environment is still needed.” Although scholars and experts have addressed this issue in recent years, the link between human rights obligations and climate change warrants further investigation and clarification. To highlight several possible avenues of discussion:

- What obligations do States have within their territory to take adaptation and/or mitigation measures to address climate change? For example, do the procedural and substantive obligations described above apply to the harmful effects of climate change, and if so, how?
- Human rights standards would apply not only to the decisions of the international community about how much climate protection to adopt, but also to the measures through which the protection was achieved. How should human rights obligations apply to response measures?
- What human rights obligations and duties do States have with respect to harm outside their territory that is caused by climate change? Do such duties differ depending on whether discussing adaptation or mitigation measures?
- One commonly noted obstacle to applying obligations on States to address climate change has to do with the difficulty of tracing clear causal links between anthropogenic contributions to climate change and the effects of climate change on the enjoyment of human rights. How can this issue be satisfactorily addressed?

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<sup>3</sup> Office of the UN High Comm’r for Human Rights [OHCHR], Report on the Relationship Between Climate Change and Human Rights, UN Doc. A/HRC/10/61 (2009).

- Which groups are particularly vulnerable to the impacts of climate change, and what obligations do States have with respect to such groups?
- How should a human rights perspective inform international cooperation to address climate change, including through the UNFCCC framework?
- What additional measures can the United Nations human rights mechanisms, including the Human Rights Council, Special Procedures, and treaty bodies take to address climate change?

With respect to all of these questions, the discussion will aim not only to identify possible obligations but also to identify good practices related to using a human rights approach to address climate change.

## **2. Objectives of the consultation**

The objectives of this consultation are to:

- i) Identify human rights obligations with respect to climate change;
- ii) Identify good practices at international, regional and national levels related to using a human rights approach to address climate change;
- iii) Offer a platform for dialogue between participants, including facilitating the exchange of experiences, knowledge and lessons learned; and
- iv) Increase awareness of a human rights based approach to climate change policy development and protection.

## **3. Outputs**

This consultation will inform the work of the Independent Expert in studying human rights obligations and good practices in their use. Good practices as well as challenges and lessons learned identified during the consultation will also be compiled as part of the joint UNEP/OHCHR/Independent Expert good practices project, including the Independent Expert's next report to the Human Rights Council to be presented in March 2015.