

# PROTECTING PEOPLE AND THE PLANET

A PROPOSAL TO ADDRESS THE HUMAN RIGHTS IMPACTS  
OF CLIMATE CHANGE POLICY

*December 2009*



**International Human Rights  
Law Clinic**  
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**INTERNATIONAL HUMAN RIGHTS LAW CLINIC, UNIVERSITY OF CALIFORNIA, BERKELEY, SCHOOL OF LAW**

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## EXECUTIVE SUMMARY

To ensure that responses to global climate changes are effective, sustainable, and advance global human development, security, equality, and freedom, this paper proposes that the Conference of Parties (COP) mandate a Process within the United Nations Framework Convention on Climate Change (UNFCCC) to support states in the development and implementation of policy. This Process, to include the full range of stakeholders – including state representatives, international human rights and humanitarian agencies, and civil society – would make certain that all mitigation and adaptation policies incorporate international human rights standards and best practices. In so doing, this Process would advance the United Nations' goal to promote peace and security through the protection of human rights. The incorporation of a rights-based approach would also enable the UNFCCC to make human rights a cross-cutting issue, consistent with the call for UN processes and agencies to incorporate human rights-based approaches in their work.<sup>1</sup> Above all, this Process would strengthen the sustainability and effectiveness of climate change policies.<sup>2</sup>

**WE RECOMMEND THAT THE COP MANDATE THE UNFCCC TO INSTITUTE A NEW PROCESS WITH PARTICULAR ATTENTION TO THE FOLLOWING CAPABILITIES:**

- » *Clarification of Existing Human Rights Standards.* This new Process should clarify existing human rights principles and international standards that will be useful for states to apply to climate change policies. The clarification of these norms should occur through collaboration among governments, existing international bodies, and a diverse group of civil actors. In practice, the resulting guidelines should address the human rights concerns of climate change response measures and establish a “do no harm” principle as the basis for evaluating climate change policies.
- » *Facilitation of Information Sharing.* This Process should provide a forum for government and expert dialogue and information sharing. Such a forum would address the impact on human rights of mitigation and adaptation policies. In order to do so, a wide range of information should be solicited regarding these impacts. Examples of such data include multidisciplinary research that models the impacts of mitigation and adaptation measures on people; well-documented, evidence-based case studies of climate change policies; comparative research that evaluates the strengths and weaknesses of national climate change policies on human rights; and development of monitoring systems and research criteria that are made readily accessible.
- » *Provision of Technical Assistance for Participation and Implementation.*<sup>3</sup> Many nations are ill-equipped to address the human rights impacts of climate change policies. To address this problem, the new Process should provide technical assistance to vulnerable states. This assistance could take many forms. It might be coordinated with existing humanitarian bodies,<sup>4</sup> or it might be initiated through regional systems. Alternatively, personnel in state and regional agencies who are already tasked with designing and implementing climate change policy could receive training, including how to conduct rights-based assessments.
- » *Operation at International, Regional, and National Levels.* All of the features of the proposed Process should be implemented at international, regional, and national levels of policy-making. Through international participation, the new Process would help states to identify principles and standards that will apply to all national policies. It should also provide valuable guidance and assistance to existing multilateral and regional organizations, including political and economic bodies, as they confront climate change issues. Finally, it should inform national reviews of existing climate change policies and their human rights implications; guide the development of new national climate policies; and provide technical assistance in the conceptualization, implementation, and monitoring of all relevant state efforts.

## Problem Statement

This paper proposes a Process to address the human rights impacts of climate change policy, thereby strengthening the effectiveness of climate change mitigation and adaptation measures. The United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, and the negotiating text of the Copenhagen Protocol all acknowledge the importance of fundamental human rights as a motive for cooperation on climate change and as an obligation in shaping a response.<sup>5</sup> In addition, the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) draws attention to the likely impacts of climate change on social and human systems due to emissions of greenhouse gases.<sup>6</sup> IPCC projections of social impacts include: increased health risks due to heat waves in Europe; greater pollution stress in North American coastal communities; droughts and flooding in Asia; and decreased food security and increased malnutrition in Africa.<sup>7</sup> Marginalized communities will be disproportionately impacted by climate change.<sup>8</sup>

A recent report by the International Council on Human Rights Policy, *Climate Change and Human Rights: A Rough Guide*, states that the IPCC has increasingly examined the social and human impacts of climate change,<sup>9</sup> but has focused at the subregional and continental levels, leaving a dearth of information regarding impacts at the local level, where people directly confront climate change hardships.<sup>10</sup> Moreover, although the IPCC Fourth Assessment Report discusses the general impacts of climate change on humans, it rarely addresses these impacts in light of people's experience of their human rights.<sup>11</sup> This connection between identifying human impacts, and understanding these impacts as directly related to human rights has yet to be fully elaborated by the IPCC and most other climate change literature to date.<sup>12</sup>

In recent years, the UNFCCC has made important progress in bridging this gap. Building on commitments in the UNFCCC,<sup>13</sup> governments

approved the Nairobi Work Programme in 2005, at the 11<sup>th</sup> Conference of the Parties. The Programme is a five-year project focused on impacts, vulnerability, and adaptation to climate change.<sup>14</sup> Two years later, at the conclusion of the 13<sup>th</sup> Conference of the Parties, states adopted the Bali Action Plan, which included an important discussion of the human impacts of climate change. The text called for enhanced mitigation measures and consideration of the "economic and social consequences of response measures,"<sup>15</sup> as well as increased state action on adaptation, with special attention to the immediate needs of developing countries "particularly vulnerable to the adverse effects of climate change."<sup>16</sup> This renewed recognition within the UNFCCC that the *social and economic impacts of climate change response measures* must be considered represents a significant step and should be built upon in on-going negotiations. Civil society groups have urged increased attention to this issue in 2009, at the 15<sup>th</sup> Conference of the Parties meeting (see Appendix A).

Human rights provides a lens through which to more completely assess and evaluate the range of social and economic impacts of climate change within and across populations, as well as a set of tools and principles to help craft responses that ensure that equality, justice, and peace for all people are promoted alongside climate and environmental benefits.

### PROTECTING HUMAN RIGHTS AND ADDRESSING CLIMATE CHANGE ARE COMPATIBLE INTERESTS

*Truly good practice – in government, in development, in other domains – tends everywhere to be consistent with human rights principles and values...<sup>17</sup>*

– Mary Robinson, former President of Ireland and former UN High Commissioner for Human Rights

It is widely recognized that human rights-sensitive development policies are more sustainable than those that do not attend to rights enjoyment.<sup>18</sup> In 2003, UN development agencies gathered to develop *The Human Rights Based Approach to Development Cooperation: Towards a Common*

*Understanding Among UN Agencies*, which defines the parameters of a human rights-based approach (HRBA);<sup>19</sup> explains the need for such cooperation;<sup>20</sup> and enumerates the importance and benefits of applying such an approach to “all development cooperation and programming in all sectors and in all phases of the programming process.”<sup>21</sup>

According to these UN agencies, the elements of a HRBA are: identification of immediate structural obstacles to rights-realization, as well as the human rights claims of rights-holders and the correlated human rights obligations of duty-bearers; assessment of the capacity of rights-holders to claim their rights and duty-holders to fulfill their obligations, and the concomitant strategies to build such capacities; monitoring and evaluation of results and processes guided by human rights standards and principles; and programs that are informed by recommendations from international human rights bodies and mechanisms.<sup>22</sup> Human rights principles, therefore, guide each stage of programming, from assessment, analysis, and program design to “implementation, monitoring and evaluation.”<sup>23</sup> As Mary Robinson, former UN High Commissioner for Human Rights, explained, “the principles in question are: participation, empowerment, accountability, non-discrimination, and express linkages to international human rights norms and standards.”<sup>24</sup> As these elements suggest, a HRBA aims to examine inequalities and remedy discriminatory processes that hamper development.<sup>25</sup> The aim of a HRBA is that “all activities ... contribute directly to the realization of one or several human rights.”<sup>26</sup>

A similar approach should be adopted with respect to climate change policies. Analysis, implementation, and evaluation of policies can be strengthened by considering rights principles and by following existing national and international commitments. State policies that appropriately address the human rights impacts of climate change can ameliorate human suffering by increasing resilience of populations, and by mitigating future consequences of a changed environment. In other words, the “convergence”<sup>27</sup>

of human rights and climate change policy are mutually reinforcing: human rights-sensitive climate change policies can protect human rights, and human rights can promote more effective and sustainable climate change policies.

Furthermore, active consideration of human rights is compatible with UNFCCC’s principle of “common but differentiated obligations” of states to address climate change, which allows governments to make advances based on relative resources.<sup>28</sup> This principle is also consistent with the treaty obligations of state parties to progressively realize economic, cultural, and social rights in the *International Covenant on Social, Cultural and Economic Rights*.<sup>29</sup> Both instruments recognize wealthier states’ implicit commitment to support international cooperation and provide assistance to less developed states to achieve international standards.<sup>30</sup>

#### THE UN’S COMMITMENT

In addition to the work of UN development agencies, the entire UN has strengthened its institutional commitment to promoting human rights. In 1997, Secretary-General Kofi Anann deepened the role of human rights within the UN system when he characterized human rights as a “cross-cutting issue” and called upon all United Nations entities to “mainstream” human rights into their activities and programs, within their respective mandates.<sup>31</sup> As a result of these efforts (reinforced by the *Common Understanding*), a number of UN agencies and UN country teams now employ “human rights-based approaches” in their work.<sup>32</sup>

### Human Rights Implications of Mitigation and Adaptation Policies

Supported by the COP process, UNFCCC state parties continue to advance mitigation strategies. They also have begun to develop and implement climate change adaptation policies that aim to enable individuals and communities to transition to present changes in their environment and to anticipate changes in the future. Yet to date,

attention to the potential negative impacts that mitigation and adaptation policies might have on human rights enjoyment have received insufficient attention in the development of policy.<sup>33</sup> Critical rights including association, expression, and access to information – which are also the building blocks for preserving culture, utilizing science, and realizing the rights of full citizenship – are often ignored.<sup>34</sup> As a result, these policies may further harm other rights: to life, security of shelter, the highest attainable standard of health, as well as rights to food and water.<sup>35</sup>

### MITIGATION POLICIES

Mitigation measures slow emissions and curb global warming, but they also bring unintended human consequences. For example, while policies encouraging biofuel production in China and Brazil may decrease emissions and bring benefits to certain farmers, they may also reduce the land available for food cultivation.<sup>36</sup> Land scarcity translates to decreased food production, which may lead to higher prices for dietary staples,<sup>37</sup> leaving poor communities without access to an adequate supply of food.<sup>38</sup> Food insecurity may also lead to forced migration scenarios.<sup>39</sup> Each of these problems related to land scarcity is likely to be exacerbated by restricted information and unequal or limited participation of affected community members (whether excluded by gender, age, ethnicity, or other characteristics) in policy formation.<sup>40</sup>

Another example of how mitigation strategies implicate human rights concerns is the Clean Development Mechanism (CDM). As Barbara Haya, consultant to the civil society organization International Rivers, explains, CDM allows countries with emission-limitation or emission-reduction commitments under the Kyoto Protocol to implement emission-reduction projects in developing countries.<sup>41</sup> Hydro power projects currently comprise the highest proportion of technology programs in the CDM.<sup>42</sup> However, despite this large share of all programs, there is little international oversight of hydro projects under the CDM.<sup>43</sup> As a result, some hydro power projects divert water resources

from entire communities, cause health problems from construction dust, lead to decreased fish populations, contribute to the loss of flood plain agricultural capacity, and cause displacement as a result of land submergence.<sup>44</sup>

New initiatives to develop cook stoves for displaced persons that are more fuel efficient are a dramatic yet mundane example of how considering rights in developing mitigation policies can dynamically reinforce both rights and the environment. Inefficient fuel use in the cook stoves used by displaced persons, for example, can cause women and girls to forage for wood more widely and often more intensively – practices that expose the women and girls to risk of violence, and are destructive of the environment.<sup>45</sup> Projects that are developing more efficient stoves are also explicitly considering their effects on the rights and health of women and girls.<sup>46</sup> Yet these types of initiatives need greater support and wider implementation as well as long-term evaluation to ensure that they continue to benefit the environment as well as women and their communities.

### ADAPTION POLICIES

Adaptation policies may also have unintended human rights consequences, particularly for traditionally marginalized groups.<sup>47</sup> In areas likely to experience the worst impacts of climate change, such as in Sub-Saharan Africa and Asia, women play a primary role in agricultural production.<sup>48</sup> For example, in Sub-Saharan Africa, women are responsible for 70-80% of household food production.<sup>49</sup> As communities in these regions face increasing food insecurity brought on by climate change, women likely will bear the brunt of the burden as they struggle to feed their families.<sup>50</sup> Due to gender-based distribution dynamics within families, women and girls also are least likely to receive food during shortages,<sup>51</sup> and as a result are more likely to experience declining health during such periods.<sup>52</sup> Accordingly, an adaptation policy to provide assistance and capacity building to improve access to food must consider the gender dynamics of food procurement and distribution within

families as well as in markets. Failure to do so may bring serious unintended consequences, including burdening women with extra work or worse: exacerbating malnutrition among those who often endure the worst effects of increased community stress.

Adaption policies to relocate coastal communities or entire small island states affected by rising sea levels and the flooding of low-lying areas may also raise a host of human rights concerns. Relocation may exacerbate existing cultural, economic, and political stresses on dislocated individuals, as well as on the communities into which they resettle.<sup>53</sup> Such relocation can result in loss of livelihood, resource shortages, and social tensions.<sup>54</sup> Moreover, tensions may be magnified when displacement, whether cross-border or internal, brings different communities into contact and competition with each other over land, food, water, and other resources, and may lead to violence.<sup>55</sup> Failure to recognize that these conflicts are intensified by exclusionary laws and policies affecting groups may lead to additional rights impacts in many displacement contexts (for example, policies that differentiate women and men within displaced communities).<sup>56</sup>

Moreover, those forced by climate change to cross borders in search of shelter or livelihood may lack assistance or protection, and may encounter abusive or discriminatory treatment in the receiving state or barriers to their return home.<sup>57</sup> They may also confront the legal question of statelessness. If a person's state is uninhabitable, is she still its citizen? <sup>58</sup> May the government of a state, no longer operating from within its territory, take steps to ensure citizenship rights for its people? <sup>59</sup> If people in this context do not fall under the definition of refugee in international law,<sup>60</sup> what entities, states, or intergovernmental programs are authorized and indeed mandated to respond to their needs and rights?

While relocation of populations may be the most viable solution in some cases and may be necessary to avoid present harms or mitigate future ones, such a process must consider the wide range of human rights impacts on the

displaced. Accordingly, the conceptualization and implementation of policies should engage a human rights-based approach in order to preserve and protect the rights of those affected. To date, international agencies have made only modest progress in this regard.

## Gaps in Approach, Coverage, Strategy, and Principles in Climate Change Policies

The United Nations Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), and the International Organization for Migration (IOM), as well as a number of other international bodies, have taken significant steps to identify and address some of the human rights concerns raised by climate change and climate change policies. Their work has drawn attention to the issue; provided formal acknowledgment within the UN system and/or the international community of the importance and interconnected nature of climate change and human rights; and, in some cases revealed gaps in existing climate change approaches (see Appendix B for summaries of select examples). Although these international institutions have made important strides, significant gaps remain in the development and implementation of climate change policies.

### LACK OF COMPREHENSIVE CONSIDERATION OF HUMAN RIGHTS CONCERNS

Within the United Nations framework, OHCHR has recognized that mitigation and adaptation policies may impact human rights. In fact, OHCHR is perhaps the only UN agency to explicitly describe the connection between human rights and climate policies. Yet it has addressed only two specific policies – biofuel production and programs to mitigate climate change by reducing deforestation (the Reduced Emissions from Deforestation and Degradation, or REDD, programs).<sup>61</sup> Virtually all climate policies, however, may have serious implications for the enjoyment of human rights.<sup>62</sup> Moreover, treatment of the full

range of rights impacts and corresponding policies is incomplete across the entire UN system.<sup>63</sup> The relevant agencies lack guidance – as well as a sense of political will and urgency – from member states.

The World Health Organization (WHO), for its part, has drawn attention to the important relationship between adaptation and mitigation policies and human health. A WHO-published report, for example, called for further examination of the issue.<sup>64</sup> Additionally, the International Organization for Migration (IOM) has made important conceptual contributions including questioning the international view that migration is merely “a failure of adaptation,” by pointing out that “it is also one of the possible adaptation strategies to climate and environmental change.”<sup>65</sup>

These examples demonstrate that the international community has begun to consider the issue of climate change policy and human rights but that this examination is incomplete. Perhaps more striking, international agencies treat climate change impacts selectively, in relation to their respective mandates, rather than comprehensively, through an integrated approach, in a single forum.

**LACK OF INCLUSIVE FOCUS ON HUMAN RIGHTS IMPACTS OF CLIMATE CHANGE POLICIES**

United Nations agencies and international institutions have focused primarily on the direct impacts of climate change, and have discussed mitigation and adaptation strategies exclusively as solutions. For example, OHCHR identifies several ways that climate change may increase stress on water supplies for millions of people around the world.<sup>66</sup> The agency also notes that “the negative effects of climate change on water supply and on the effective enjoyment of the right to water can be mitigated through adoption of appropriate measures and policies.”<sup>67</sup> The goals of these programs could be further advanced, however, by including analyses of the unintended impacts of mitigation and adaptation programs on the enjoyment of human rights. For example, greater agricultural use of wastewater may increase the risk of contamination or disease,

and changes in crop irrigation patterns may have impacts on food security,<sup>68</sup> thus negatively affecting the rights to health and food.

The importance of the consideration of human rights impacts is also evident in the mitigation and adaptation efforts of the United Nations Environment Programme (UNEP). UNEP has provided valuable assistance to countries to develop sound energy policies; has developed assessment tools for climate change; has supported adaptation planning through disaster prevention efforts; and has given preliminary consideration to the human impacts of climate change policy.<sup>69</sup> Nevertheless, the Programme has not articulated a cohesive strategy or guidelines for reviewing the unanticipated human rights impacts of its work. The dual problems of insufficient development of the issue and fragmented engagement are symptoms of the lack of coherent member state attention and commitment. They must be addressed.

**LACK OF COMPREHENSIVE STRATEGY FOR INTERNATIONAL COOPERATION**

Despite widespread consensus that the international community must identify and address the human consequences of climate change policies, no cohesive strategy exists to realize this goal.<sup>70</sup> Engaged UN agencies to date have not offered sufficient guidance. UNHCR encourages the international community to clarify responsibilities and “to adopt an approach based on respect for human rights and international cooperation,” in particular with regard to the “international protection regime.”<sup>71</sup> Similarly, OHCHR has stated that “[c]limate change can only be effectively addressed through cooperation of all members of the international community,” and that “international cooperation is important because the effects and risks of climate change are significantly higher in low-income countries.”<sup>72</sup> In addition, the Inter-Agency Standing Committee successfully gathered a number of UN and non-UN humanitarian institutions to consider climate change collectively, but still calls for more inter-agency cooperation.<sup>73</sup>

Nevertheless, currently there is no

comprehensive plan for cooperation among governments, international bodies, scientists, and civil society. Developed nations may have commitments to assist developing nations,<sup>74</sup> but without some form of guidance regarding how states and other actors might cooperate, or a framework within which to do so, there remains a large gap in the existing UN and international agency treatment of this important issue.<sup>75</sup>

#### **LACK OF COHESIVE PRINCIPLES OR STREAM-LINED PROCESS FOR GUIDING STATES**

More work is needed across international agencies and states to clarify specific and cohesive principles or guidelines for states to address human rights considerations in developing and implementing climate change policies.

We note that some international agencies and institutions have made important efforts in this direction. OHCHR identifies many direct links between climate change and the enjoyment of human rights – and even to a certain extent the link between climate change *policies* and human rights.<sup>76</sup> In a similar manner, UNHCR and IOM identify some ways in which climate change may stimulate migration, and the reasons why migration might be used as an adaptation strategy.<sup>77</sup> UNHCR and IOM also recognize some of the ways that migration may interact with human health, political and ethnic conflicts, and gender dynamics.<sup>78</sup> UNHCR, for example, explicitly calls for analysis to develop a “common understanding” of the links between climate change, environmental degradation, armed conflict, displacement, and migration.<sup>79</sup>

These are all important acknowledgements that advance the climate policy discussion. However, there is still no suggestion of how nations might tackle this cross-cutting issue, no guidelines that address the human rights impacts of climate change response measures, and no advice for how states might formally integrate human rights considerations into their policymaking process. This is the challenge we address.

## **The Need for a New Process**

Faced with a complex and evolving set of considerations and key gaps in the existing climate change approaches, governments need a structure and a process in the UNFCCC that will facilitate their collaboration to develop and to implement human rights based-approaches to climate change policies. The UN agencies and the international bodies have begun important, but largely isolated, analyses of the human consequences of climate change and climate change policies. It is essential to act now, as new commitments to address climate change are being formed, to create a central forum for increased collaboration with and support for governments. This forum should build constructively on the knowledge and expertise within international agencies and bodies and draw all relevant actors to work together. Several existing models provide a useful starting point to consider how this process might function.<sup>80</sup> Below, we discuss particular ways in which these models address guidelines for supporting rights-based approaches, facilitation of information sharing, and technical assistance. These descriptions are non-exhaustive, and are provided simply as one tool for the conceptualization of how a new process could function.

This new structure and process (hereinafter “Process”) should be guided by its capacity to address issues, as they arise, in the development of climate change policy. Located within the UNFCCC, this Process should facilitate input and clarification of standards and best practices by expert international agencies, institutions, and NGOs. In order for an international process to effectively address the human rights and humanitarian implications of climate change, it should be able to: (1) clarify human rights principles applicable to the development of climate change policies; (2) facilitate information sharing; (3) provide technical assistance; and (4) operate in these capacities at international, regional, and state levels. It will also require a sustainable financing component. These four elements jointly comprise the charter for the new Process.

## CLARIFICATION OF EXISTING HUMAN RIGHTS STANDARDS

The new Process should clarify existing human rights principles and international standards that will be useful for states to apply to all climate change policies. The clarification of these applicable norms should occur through collaboration among governments, existing international bodies, and a diverse group of civil actors, including scientists, human rights experts, and representatives of NGOs, as well as a broad spectrum of representatives of affected groups and members of civil society. In practice, the resulting guidelines should address the human rights concerns of climate change response measures and establish a “do no harm” principle as the basis for evaluating climate change policies. The principles should provide guidance on how to apply a human rights-based approach (e.g. utilize Human Rights Impacts Assessments)<sup>81</sup> to evaluate policies, and should include specific guidelines for government decision making.

For example, a nation designing an adaptation policy of seasonal or permanent relocation would be aided by principles that consider the potential cultural, social, and economic impacts on displaced communities as well as receiving communities. Or, a nation accommodating non-citizens displaced by climate change could turn to principles addressing national sovereignty, as well as existing standards to respect the rights of immigrants and migrants. Moreover, these guidelines should address how existing human rights principles can be utilized to ameliorate the disproportionate impacts of climate change policy, particularly on women, the elderly, indigenous populations, and other marginalized groups.<sup>82</sup>

Once articulated through this collaborative process, the principles would provide centralized and cohesive guidance to governments on how to uphold their existing rights commitments while addressing climate change. The resulting response measures would support community needs, would reach all affected populations and territories and, more generally, would produce policies that are stronger, more sustainable, and more equitable.

There are a number of cases where elaboration of principles, and inclusive participation in such a process, has improved policymaking on a national level. The UN Economic Commission for Europe *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention)* provides an example of a unique process through which multiple stakeholders, in particular civil society, participated in the conceptualization, negotiation, and implementation processes for a multinational agreement.<sup>83</sup> For example, during the negotiation of the *Aarhus Convention*, NGOs were invited to form an NGO coalition that actively participated alongside government representatives in the negotiation process.<sup>84</sup> The negotiation and implementation methods of the *Aarhus Convention* could be adapted to our current discussion. NGOs similarly could be invited to participate in clarifying human rights principles in the context of climate change policy.

This level of civil society involvement will add significant value to the proposed Process. The NGO community has played a key role in each step of the climate change negotiations, from the Rio Declaration to the present.<sup>85</sup> Moreover, NGOs are already leaders in engaging climate change policies and their unintended impacts on human rights.<sup>86</sup> As such, their input would enrich the discussion, and lend valuable insight to the Process.

The *Maastrich Guidelines on Violations of Economic, Social and Cultural Rights (Maastrich Guidelines)* provide another example of a process that clarified existing human rights standards and provided concrete and constructive guidance to states – this time in implementing economic, social, and cultural rights.<sup>87</sup> These Guidelines were conceptualized at a workshop attended by approximately 30 experts, including state representatives, UN officials, NGO representatives, and scholars<sup>88</sup> tasked with clarifying the nature and scope of violations to the *International Covenant on Economic, Social and Cultural Rights*.<sup>89</sup> The experts sought to aid those “who are concerned with understanding and determining violations

of economic, social and cultural rights and in providing remedies thereto, in particular monitoring and adjudicating bodies at the national, regional and international levels.”<sup>90</sup> The resulting *Maastrich Guidelines* have deepened international understanding of the breadth and character of these rights and have informed state practices for a decade.<sup>91</sup>

### INFORMATION SHARING

The new Process to address climate change policies and human rights should also facilitate the sharing of pertinent information. Thus far, information gathering and sharing has been a central component of climate change policy.<sup>92</sup> In particular, the IPCC continues to play a critical role in this regard.<sup>93</sup> However, research disseminated through the IPCC has focused primarily on climate change science: the visible impacts of change and projections of future warming and its associated impacts. It has given more limited consideration to the social impacts of mitigation and adaptation strategies and their relationship to climate change policy.<sup>94</sup>

What is needed is a forum for governments and experts to share information about and discuss the human rights impacts of mitigation and adaptation policies. In doing so, countries will learn how each is addressing these difficult issues and how each is utilizing rights-based approaches to analyze and evaluate the successes and failures of such policies. The resulting dialogue and exchange of ideas will likely increase the overall effectiveness and sustainability of future climate change policies.

A wide range of additional information regarding human rights impacts also will be useful to states as they design and implement climate change policies. For example, multidisciplinary research that models the human impacts of both mitigation and adaptation measures would be extremely valuable. Similarly, well-documented and evidence-based case studies (perhaps using Human Rights Impacts Assessments)<sup>95</sup> of climate change policies in different countries would also be helpful. Additionally, comparative

research evaluating the strengths and weaknesses of national climate change policies on human rights would aid states as they implement new measures, or reevaluate and revise existing ones. Development and sharing of monitoring systems and research criteria would also prove useful to governments as they undertake their own Human Rights Impact Assessments.

The *Hyogo Framework for Action 2005-2015* (*Hyogo Framework*) provides several examples of information sharing at the international level.<sup>96</sup> The *Hyogo Framework* aims to substantially reduce losses from disasters through methods such as the integration of “disaster risk reduction into sustainable development policies and planning;” the development and “strengthening of institutions, mechanisms and capacities to build resilience to hazards;” and the “systematic incorporation of risk reduction approaches into the implementation of emergency preparedness, response and recovery” programs.<sup>97</sup> The *Hyogo Framework* has employed the use of an online tool termed “the Hyogo Framework Monitor” (HFM) to facilitate information sharing within this process.<sup>98</sup> National Hyogo Framework representatives have access to this online tool, and report on national progress by inputting data onto the website.<sup>99</sup> The HFM then provides state representatives “with easy access to its disaster risk information and monitoring trends in progress over the years.”<sup>100</sup> It also allows them to view the progress and strategies of other countries with respect to the *Hyogo Framework* priorities,<sup>101</sup> and provides access to a large number of additional reports on global disaster risk prevention, particularly those written by the United Nations International Strategy for Disaster Reduction (UNISDR).<sup>102</sup>

Notably, the *Hyogo Framework* also promotes information sharing through international and national conferences. At the international level, the Global Platform is “the main forum for continued and concerted emphasis on disaster reduction, providing strategic guidance and coherence for implementing the Hyogo Framework, and for sharing experiences and expertise among all its stakeholders.”<sup>103</sup> At the national level, the National

Platforms for Disaster Risk Reduction allow for “advocacy, coordination, analysis and advice on disaster risk reduction” within nationally operated fora.<sup>104</sup> These various National Platforms often sponsor workshops and events to strengthen the national coordination of disaster risk reduction efforts.<sup>105</sup>

### TECHNICAL ASSISTANCE

The third component of the new Process should be the provision of technical assistance. While the world’s poorest countries experience some of the most threatening impacts of climate change,<sup>106</sup> these countries are often the least technically equipped to address the human rights impacts of climate change, much less the impacts of climate change policies on their populations. In order to address this disparity in resources, the new Process should provide technical assistance to vulnerable states. This assistance could take many forms, such as by coordinating with existing humanitarian bodies,<sup>107</sup> or by initiating regional systems to provide assistance. Alternatively, the Process could offer direct assistance through training of relevant personnel in state and regional agencies tasked with the design and implementation of climate change policies.<sup>108</sup>

The *Aarhus Convention* provides a number of examples of technical assistance to consider. Aarhus Centres have been established in eight countries<sup>109</sup> to facilitate the implementation of the Convention by conducting awareness-raising activities; encouraging dialogue between government and civil society; and hosting training activities for “journalists, judicial staff, school children and other target groups,” among other programs.<sup>110</sup> The proposed Process might draw upon the concepts of regional centers, training events, and collaboration with other agencies to develop its own technical assistance component.

### OPERATION AT INTERNATIONAL, REGIONAL, AND NATIONAL LEVELS

All components of the Process should operate at international, regional, and national levels of policymaking. Not only are climate change policies implemented at all levels of governance,

their attendant human rights impacts are likewise experienced at all levels. Moreover, evaluation of impacts should be an on-going activity, as new impacts may emerge over time. By encouraging greater involvement and cooperation among different levels of government and diverse nations, the Process will create a cohesive, resilient, and effective framework to guide policymaking.

At the international level, the new Process would create a centralized forum for the UNFCCC to consider and address human rights concerns. This forum would provide states with a place and a process in which to clarify key existing rights-based principles and international standards<sup>111</sup> applicable to the national policies of all states. The Process would also offer guidelines and practical suggestions for how these principles might inform mitigation and adaptation strategies. Going forward, the UNFCCC would be able to reference these principles and models when developing, introducing, or supporting new climate policies. Additionally, the Process would establish a method for information sharing among all governments, international agencies, and civil society around the world, while improving cooperation among states as they share relevant experiences and expertise.

At the regional level, the proposed Process would provide valuable guidance and assistance to existing multilateral and regional organizations, including political and economic entities, as they confront climate change issues. This assistance might include facilitation of regional cooperation in standard setting and implementation, with particular attention to the transnational effects of climate change such as migration. Through training and assistance programs, the Process could also aid regional groups in the development of best practices for climate change-related activities and policies.<sup>112</sup>

At the state level, the new Process would inform national reviews of existing climate change policies and their human rights implications; guide the development of new national climate policies; and provide technical assistance in the conceptualization, implementation, and, if necessary, the revision of all relevant state efforts.

It would also support information gathering at the state level, such as through Human Rights Impact Assessments of national policies, and dissemination of this information to the wider international community. For example, a national government considering a new biofuel policy might use the Process' principles to guide project design and monitoring. Also, the Process would provide the government with technical assistance, potentially in the form of a training event within the country (or a neighboring one).

Alternatively, a regional office of the Process might work directly with the government to analyze how its national biofuel policy might affect the human rights of its citizens. The government could also seek additional information through the information sharing component, which might provide extra-national examples of sound biofuel policies. Once the project was implemented, the state could share its experience with other countries, in the form of an impact assessment or policy review of its biofuel strategy. As additional impacts arise, policies could be revised. In these ways, all elements of the new Process would operate at the state level to assist governments in the consideration, development, implementation, and evaluation of climate change policies, and to ensure that policies "do no harm" with regard to human rights.

## Conclusion

Applying a human rights-based approach to climate change policies will ensure their sustainability and effectiveness. Empirical evidence demonstrates that "a human rights-based approach leads to better and more sustainable human development outcomes."<sup>13</sup> These rights-based approaches would contribute to the resilience of affected communities and nations in responding to climate change. By strengthening transparency, participation, information, and accountability, they would also build stronger societies able to continuously develop and revise their policies in response to new challenges. Thus, the proposed new Process will advance human rights while facilitating improved

human stewardship of the planet. Therefore, it is imperative that stakeholders charge the UNFCCC with a mandate and financing to begin an on-going process to address the current gap in policymaking.

A new Process designed for the specific task of addressing the human rights of climate change policies could take a multitude of forms. This policy paper seeks to facilitate a dialogue, provide some concrete suggestions regarding key elements of such a process, and offer examples that might be adapted to guide its development. The four elements of the Process are indicative and not exclusive, nor are the examples drawn from existing mechanisms considered perfect. However, these suggestions provide a starting point for the conceptualization of a new framework that melds, rather than isolates, discussions of climate change policies and human rights.

The key now is for the negotiating states to act to confirm a mandate to develop such a Process within the four corners of the UNFCCC and its implementation. All of the elements of this Process may not be clearly delineated as of yet – indeed, this is a task for member nations – but the need for such a process is abundantly clear.

Ultimately, as the UNFCCC process has already recognized, it is only by drawing together diverse peoples guided by a common framework that we as inheritors and stewards of the planet can succeed in responding to the dangers of climate change. The contribution of this paper is to remind states that their long-standing commitment to fundamental rights and freedoms, equality and development for all, is part of this task.

## APPENDICES

### APPENDIX A

October 22, 2009

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Dear President Obama:

As the United States reenters the negotiations on climate change, we urge you to renew the United States' role as a world leader by (1) acknowledging the dire effects of climate change on human lives, especially on the world's most vulnerable individuals and communities, and (2) renewing the United States' commitment to promote social justice worldwide by ensuring that human rights and humanitarian concerns are formally integrated into all mitigation and adaptation strategies adopted both at the Copenhagen conference and afterward.

The impacts of climate change threaten the lives of people across the world. We need look no further than Hurricane Katrina for a sobering example of the critical link between the global climate and human rights. Despite strong warnings of impending catastrophic weather patterns, few steps were taken to protect vulnerable populations in and around New Orleans or to put in place adequate response mechanisms, such as evacuation assistance, relief aid, and emergency health care. As a result, thousands of citizens lost their homes and were trapped for days without proper sanitation, food, or access to water. Many died. Those most affected were low-income communities and people of color who already lacked a voice in the policies that shape their lives. Hurricane Katrina demonstrates the urgent need to address inequality before disaster strikes. So long as inequalities persist, underrepresented populations will continue to suffer the most during disasters and disaster response measures.

Hurricane Katrina provides but one example of the need to apply human rights and humanitarian standards when considering, adopting, and implementing domestic and international policies related to climate change. We know, for instance, that mitigation measures are invaluable for slowing emissions and global warming, but can also have unintended consequences. For example, while policies encouraging biofuel production can decrease emissions and bring benefits to certain farmers, they can also reduce the land available for food production. In turn, heightened land scarcity means less food production and can lead to higher food prices and an increasing inability for struggling communities to adequately feed themselves. Moreover, such policies may further disenfranchise already marginalized groups, including girls and women, who often endure the worst effects of increased community stress. The U.S. position must be to "do no harm" to human rights while striving to lower costs and reduce carbon emissions. Therefore, any climate policy addressing emissions must include a mechanism to account for such unanticipated human rights impacts. We urge you to promote a final agreement at Copenhagen that provides for a human rights review of all mitigation policies.

We also call upon you to implement adaptation policies that are human rights-sensitive. Such an approach will build equality and resilience into adaptation response measures, further assisting communities as they combat critical situations including decreased productivity in agriculture and forestry; increased mortality from malnutrition, heat waves, floods and droughts; desertification; increased water shortages; and greater frequency of extreme weather events. As with mitigation policies, adaptation policies can unintentionally create their own host of human rights concerns. For example, a policy to relocate coastal communities faced with rising sea levels may exacerbate existing cultural, economic, and political stresses on dislocated individuals, as well as on the communities into which they resettle. Therefore, adaptation measures should not only be increased, but also reviewed for their human rights implications.

As of yet, there is scant recognition of these very tangible human rights concerns in the text of the proposed Copenhagen agreements. Even more problematic is the lack of a dedicated post-Copenhagen process by which governments, experts and NGOs can identify the appropriate standards and rights-based practices relevant to climate impact assessment and adaptation. Proactive consideration and incorporation of human rights and humanitarian norms into climate policies will help minimize the adoption of unjust practices, decrease human suffering, and ultimately be less expensive than responding to human rights violations after they have occurred. Such a process will also be critical to assuring that the United States' and other states' financial contributions do not inadvertently violate the dignity and rights of the world's most vulnerable communities.

We urge the United States to commit to incorporating a human rights framework at Copenhagen, and to initiate an international process beyond Copenhagen to address the human rights aspects of climate change. By doing so, the United States will continue its long-term commitment to poverty alleviation and to the promotion of human rights worldwide, and also to working cooperatively with the international community to address the needs and interests of all stakeholders.

We welcome the opportunity to further discuss these suggestions with you and your Administration in order to make climate justice a reality.

Sincerely,

Advocates for Environmental Human Rights, New Orleans, Louisiana  
 Center for Law & Global Justice, University of San Francisco, School of Law  
 Center for Law, Energy & the Environment, University of California, Berkeley,  
 School of Law  
 Center on Race, Poverty & the Environment, San Francisco, California  
 Columbia Law School Human Rights Clinic  
 Earthjustice, Oakland, California  
 Environmental Justice Resource Center, Clark Atlanta University  
 Human Rights Advocates, Berkeley, California  
 Human Rights Institute, University of Connecticut  
 International Indian Treaty Council, San Francisco, California  
 Miller Institute for Global Challenges and the Law, University of California, Berkeley,  
 School of Law  
 National Network for Immigrant & Refugee Rights, Oakland, California  
 Organization for Human Rights & Social Justice, New York, New York  
 Refugee and Human Rights Clinic, University of California, Hastings College of the Law  
 Daniel Shanfield, Esq. & Associates – Immigration Defense, San Jose, California  
 University of Iowa Center for Human Rights  
 Urban Morgan Institute for Human Rights, University of Cincinnati College of Law  
 US Human Rights Network, Atlanta, Georgia  
 World Organization for Human Rights USA, Washington, DC

Cc: Assistant Secretary Esther Brimmer, Bureau of International Organizations  
 Assistant Secretary Kerri-Ann Jones, Bureau of Oceans and International Environmental and Scientific Affairs  
 Assistant Secretary Michael H. Posner, Bureau of Democracy, Human Rights, and Labor  
 Assistant Secretary Eric P. Schwartz, Bureau of Population, Refugees, and Migration

## APPENDIX B

United Nations agencies and other intergovernmental bodies have made important contributions to the consideration of human rights and humanitarian needs with respect to climate change and their work represents early and valuable efforts at applying a human rights lens to this area of policymaking and program design. These agencies and international bodies (UNHCR, OHCHR, UNEP, WHO, IOM, and ISAC), and their climate change-specific contributions included here represent examples of efforts that have been made; this catalogue is not exhaustive, nor is it fully comprehensive or historically complete. The organizations highlighted were chosen, in part, because of their vocal role in the international discussion of climate change and human rights.

### UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)

UNHCR has issued a number of reports that call for the international community to analyze the causes of climate change<sup>1</sup> as well as anticipate migration scenarios<sup>2</sup> – both internal and international – which have the potential to leave individuals and communities outside their states of origin, and in some cases, stateless.<sup>3</sup>

UNHCR notes that natural disasters may “call for a new distribution of roles and/or new models of cooperation,” and may require new methods of international cooperation, support, and responsibility-sharing.<sup>4</sup> Given the complexity of the issues, the agency calls on the international community to consider whether “additional international legal frameworks are necessary to tackle the issues, or whether additional mechanisms coupled with intense and careful coordination will suffice.”<sup>5</sup> Those legal frameworks may be regional, national, and international.<sup>6</sup>

The agency’s recent report, *Climate Change, Natural Disasters and Human Displacement: a UNHCR Perspective*, outlines new operations management, protection, and advocacy strategies for migration and displacement to ensure the “realization of the protection needs of persons of concern falling within its mandate.”<sup>7</sup> UNHCR recognizes the need to examine its ability to offer assistance and protection to urban residents who are enduring increased temperatures due to climate change in addition to temperature rise brought about by climate-induced migration to urban centers.<sup>8</sup> Additionally, UNHCR points to the need to review the legal protection regime, especially in light of the protections afforded to those classified as refugees under the 1951 Refugee Convention compared with protections often afforded those crossing international borders to flee climate-induced armed conflict.<sup>9</sup>

UNHCR considers advocacy “an important tool,” the role of which will be further evaluated after COP 15.<sup>10</sup> UNHCR has made submissions to the UNFCCC in advance of COP 15.<sup>11</sup> In particular, the agency has cautioned state parties against adopting the term “climate refugee.”<sup>12</sup>

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*Climate Change*], available at <http://www.unhcr.org/4ad5820f9.html> (last visited Oct. 25, 2009).

7 *A UNHCR Perspective*, *supra* note 1, at 11-12.

8 *Id.* at 11.

9 *Id.*

10 *Id.* at 12.

11 *UNHCR and Climate Change*, *supra* note 6. For example, the UNHCR, the International Organization for Migration (IOM), the Norwegian Refugee Council, the Special Representative of the Secretary-General on the Human Rights for Internally Displaced Persons, and the United Nations University have suggested that the negotiating text include recognition of “an established link between the effects of climate change and human mobility,” and the need to factor these considerations into national adaptation policies. Non Paper: Comments and Proposed Revisions to the Negotiating Text Prepared by the Chair of the UNFCCC Ad Hoc Working Group on Long-Term Cooperation Action, ¶ 2, June 5, 2009, available at <http://www.unhcr.org/4a408cc19.html> (last visited Nov. 10, 2009) [hereinafter Non Paper].

12 *Id.* ¶3. UNHCR’s other outreach efforts include “coordinating” with the Secretary-General’s Special Representative for Human Rights of Internally Displaced Persons and “working with other UN agencies and Inter-Agency Standing Committee members” to “raise awareness about the humanitarian and human rights implications of climate change.” *UNHCR and Climate Change*, *supra* note 6.

1 U.N. High Comm’r for Refugees [UNHCR], *Climate Change, Natural Disasters and Human Displacement: A UNHCR perspective*, 1 (Aug. 14, 2009) [hereinafter *A UNHCR Perspective*] available at <http://www.unhcr.org/4901e81a4.html> (last visited Nov. 7, 2009).

2 *Id.*

3 *Id.* at 2.

4 *Id.*

5 Craig L. Johnstone, *The Future Is Now*, 31 FORCED MIGRATION REV. 47 (Oct. 2008) (writing in his capacity as UN Deputy High Commissioner for Refugees).

6 *UNHCR and Climate Change: Involvement, Challenges, and Responses*, UNHCR BROCHURE, Oct. 2009 [hereinafter *UNHCR and*

UNHCR recognizes the need for new strategies tailored to address the needs of persons, in the context of climate change, who already fall within its mandate.<sup>13</sup> These persons may include: victims of natural disasters who flee across borders because their government has “consciously withheld or obstructed assistance in order to punish or marginalize them on one of the five grounds set on in the refugee definition;”<sup>14</sup> residents of sinking islands who are forced to flee and are rendered “stateless;” victims of “conflict-induced internal displacement” assisted through the “Cluster Approach;”<sup>15</sup> those displaced within their own country as a result of armed conflict resulting from scarce resources;<sup>16</sup> and, on a case-by-case basis, those displaced within their own country as a result of natural disasters.<sup>17</sup>

Notably, UNHCR carefully delineates its current mandate work from work for those persons who fall outside its mandate.<sup>18</sup> UNHCR draws particular attention to the “unclear” legal status of persons affected by natural disasters who cross international borders and citizens of sinking islands who cross international borders,<sup>19</sup> and the agency raises the difficulty of ensuring the rights of citizenship for persons whose state legally exists, but is no longer inhabitable.<sup>20</sup> UNHCR characterizes these and other problems as critical “legal and operational gaps” that need to be filled.<sup>21</sup>

In addition to acknowledging that UNHCR cannot

fully or by itself address the legal and operational gaps for populations displaced by climate-induced factors, the report stresses that “prevention and adaptation activities at the local level should be supported by ... affected states and the broader international community, including relevant components of the UN system and the international financial institutions.”<sup>22</sup>

Additionally, UNHCR acknowledges the impacts of refugees and Internally Displaced Persons (IDPs) on the environment (e.g. deforestation) and has enacted programs to mitigate these impacts and to help populations adapt.<sup>23</sup> UNHCR is also sensitive to the fact that climate change impacts, including flood and food scarcity, may disproportionately affect populations who are already refugees.<sup>24</sup>

For more information about the UNHCR’s work, visit the agency’s webpage devoted to climate change: <http://www.unhcr.org/pages/49e4a5096.html>.

#### UNITED NATIONS OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR)

In January 2009, the Office of the High Commissioner for Human Rights (OHCHR) published a report recognizing a link between climate change and human rights.<sup>25</sup> This report outlines and explains many of the impacts that climate change will have on the enjoyment of hu-

<sup>13</sup> *Id.* at 12.

<sup>14</sup> *A UNHCR Perspective, supra* note 1, at 7.

<sup>15</sup> *Id.* The Cluster Approach is “the main forum at the global level for the overall coordination of protection activities in humanitarian action. Established in 2005 as part of the humanitarian reform process, the Cluster Approach includes UN human rights, humanitarian and development agencies as well as non-governmental and other international organizations active in protection.” See Protection Cluster Working Group <http://www.humanitarianreform.org/humanitarianreform/Default.aspx?tabid=79> (last visited Nov. 10, 2009), for a description of the work of the working group, which is chaired by UNHCR, the lead agency for protection at the global level.

<sup>16</sup> *A UNHCR Perspective, supra* note 1, at 5.

<sup>17</sup> *Id.* at 7. Even for those persons who clearly fall within their existing mandate, the UNHCR notes a need to strengthen relationships with governments and partner organizations on their behalf, especially in light of the enormity of the problem and the number of people affected. *Id.* at 8.

<sup>18</sup> UNCHR does not believe that the legal term “refugee” should be expanded to include the notion of environmental or climate refugees. UNHCR cautions against the rhetorical device of using environmentally-induced movement, by itself, as grounds for refugee status. *Id.* at 9.

<sup>19</sup> *Id.* at 4-5.

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Id.* at 10.

<sup>22</sup> *Id.* at 11. UNHCR has also called upon the international community to “clarify the responsibilities of states, IGOs [intergovernmental organizations] and NGOs [nongovernmental organizations] and encourage burden-sharing;” “uphold human rights norms to protect the most vulnerable;” “prevent statelessness;” fill the “legal/protection gaps” for persons moving across borders as a result of climate change; and encourage states to temporarily accept and protect persons fleeing climate change-induced conditions. U.N. High Comm’r for Refugees [UNHCR], *Climate Change is a Humanitarian Problem: Where People Flee, UNHCR is There to Help*, (Dec. 1, 2008) available at <http://www.unhcr.org/4937fc712.html> (last visited Nov. 11, 2009).

<sup>23</sup> UNHCR views such programs as not only benefiting the environment, but also lessening tension between refugee or IDP populations and local communities. *A UNHCR Perspective, supra* note 1, at 13-14.

<sup>24</sup> *Id.* at 14.

<sup>25</sup> Office of the U.N. High Comm’r for Human Rights [OHCHR], *Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009) [hereinafter *Climate Change and Human Rights*] available at <http://www.ohchr.org/EN/NewsEvents/Pages/OHCHRanalyticalstudyClimateChange.aspx> (last visited Nov. 10, 2009).

man rights, and the existing international covenants that protect these rights. As a result of melting glaciers and reductions in snow cover induced by climate change, it is projected that water supplies for one-sixth of the world's population will be decreased.<sup>26</sup> With water resources already stressed in many parts of the world, further reductions in water supplies will impinge on the ability of states to respect water rights, which are recognized in several international human rights conventions.<sup>27</sup> Utilizing multiple examples, the report illustrates the complex ties between changing climates and the enjoyment of well-recognized human rights.

OHCHR also draws attention to the ways in which climate change will affect specific, and often at risk or otherwise vulnerable, groups. For example, the report explains that “[w]omen are especially exposed to climate change-related risks due to existing gender discrimination, inequality and inhibiting gender roles.”<sup>28</sup> Women – especially the very elderly and the very young – are most vulnerable to extreme weather events, as a result of disparate treatment in risk preparedness and warning and communication responses (women are often not consulted or included in preparedness programs); and girls and women may bear a disproportionate share of the adverse social and economic effects of climate change, and may not participate or benefit from recovery efforts at the same level as men and boys.<sup>29</sup>

OHCHR directs attention to some of the serious hardships posed by climate-induced displacement including the risk of violent conflict and threats to security.<sup>30</sup> The report suggests how human rights may be adversely affected by problems of climate-induced movement and that these concerns are exacerbated by the lack of clear international law related to the protection of persons affected by climate displacement (especially citizens of sinking island states).<sup>31</sup>

<sup>26</sup> *Id.* at ¶29.

<sup>27</sup> *Id.* at ¶28, noting that “[t]he Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities explicitly refer to access to water services in provisions on an adequate standard of living, while the Convention on the Rights of the Child refers to the provision of ‘clean drinking water’ as part of the measures States shall take to combat disease and malnutrition.”

<sup>28</sup> *Climate Change and Human Rights*, *supra* note 25, at ¶45.

<sup>29</sup> *Id.* In a similar manner, the report also explains the vulnerability of several other groups, including children and indigenous peoples. *Id.* at ¶48, ¶51.

<sup>30</sup> *Id.* at ¶55, ¶¶61-64.

<sup>31</sup> *Id.* at ¶¶57-60. OHCHR also notes that “climate change-related conflicts could be one driver of forced displacement,” and that at least one study has predicted that the risk of violent conflict will be particularly high in certain regions, particularly sub-Saharan Africa,

It is important to note that OHCHR also mentions the “human rights implications of response measures.”<sup>32</sup> The report highlights how mitigation and adaptation policies could impact human rights through two mitigation strategies: biofuel production<sup>33</sup> and Reduced Emissions from Deforestation and Degradation (REDD) policies.<sup>34</sup>

In response to the many human rights concerns related to climate change, OHCHR provides several suggestions for national and international action. Acknowledging the complexity of the issue, OHCHR focuses on the actions of national governments, highlighting several key obligations of nations to their citizens.<sup>35</sup> These include the “progressive realization of economic, social and cultural rights;”<sup>36</sup> “access to information and participation in decision-making” for all individuals, which might allow people to meaningfully participate in decisions about relocation, or to receive adequate notice of impending risks;<sup>37</sup> and the application of “human rights standards and principles” to climate change policy-making, an obligation that includes consideration of how these policies themselves may impact the enjoyment of human rights.<sup>38</sup>

With respect to international obligations, OHCHR suggest that international cooperation will be a key to success in the implementation of climate change policies, and that the concepts of international cooperation and protection of human rights are both central to the United Nations Charter.<sup>39</sup> Furthermore, the Office points to the obligation of developed states to assist developing nations as they respond to climate change and protect economic, social, and cultural rights.<sup>40</sup>

For additional information about OHCHR’s work, visit their webpage devoted to climate change: <http://www2.ohchr.org/english/issues/climatechange/index.htm>.

Asia, and Latin America. *Id.* at ¶¶62-63.

<sup>32</sup> *Id.* at ¶¶65-68.

<sup>33</sup> With respect to “agro-fuels,” OHCHR explains that agro-fuel production can lead to an increased competition for land, and thus increased food prices, and that biofuel production can have especially severe consequences for indigenous peoples when production intrudes on traditional lands. *Id.* at ¶¶65-67.

<sup>34</sup> REDD programs might lead to “expropriation” and “displacement” of those who depend on the land, and the related loss of self-determination, again with a particular threat to indigenous populations. *Id.* at ¶68.

<sup>35</sup> *Id.* at ¶¶72-74.

<sup>36</sup> Included in this norm is a guarantee of “non-discrimination in access” to these rights. *Id.* at ¶76.

<sup>37</sup> *Id.* at ¶¶78-79.

<sup>38</sup> *Id.* at ¶80.

<sup>39</sup> *Id.* at ¶85.

<sup>40</sup> *Id.*

## UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)

UNEP has made important contributions to the conceptualization and implementation of adaptation and mitigation strategies. In the area of adaptation, UNEP has helped improve climate assessment tools; develop local climate data; assess potential impacts of climate change; and has supported adaptation planning, especially with respect to disaster prevention efforts.<sup>41</sup> Some of UNEP's primary activities regarding mitigation have been to help "countries make sound, informed energy supply choices with a focus on renewable energy options,"<sup>42</sup> and to provide developing nations with technical assistance and "guidance" regarding the Clean Development Mechanism.<sup>43</sup> Additionally, UNEP has explicitly recognized the vulnerability of many developing countries to climate change, and has included strengthening national capacities for "vulnerability assessment and adaptation planning" as one of its strategic goals for 2010-2011.<sup>44</sup>

## WORLD HEALTH ORGANIZATION (WHO)

WHO has made vital contributions to the field through its work to delineate the connections between climate change and human health, advocate for greater attention and research to this topic, and consider the most effective interventions for promoting human health.<sup>45</sup> WHO has called for assessment of the health impacts of mitigation and adaptation strategies in other sectors.<sup>46</sup> The organization published an expert report that notes that "[a]daptation steps implemented for the water sector, including infrastructure development, irrigation and use of wastewater, are likely to change the pattern of water-related health risks, from ability to ensure necessary household

water requirements, to risks of chemical and microbiological contamination, to the abundance of disease vectors."<sup>47</sup> Recognizing that adaptation and mitigation policies have the ability to either improve or degrade human health, the expert report argues that the health implications of these climate policy decisions must be much more fully considered, and the assessment process of the impacts of adaptation and mitigation policies improved to include human health as well as environmental impacts.<sup>48</sup>

WHO has also committed itself to promoting and supporting production of scientific evidence and partnering with other UN agencies and "sectors other than the health sector at national, regional and international levels, in order to ensure that health protection and health promotion are central to climate change adaptation and mitigation policies."<sup>49</sup>

## INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM)

IOM has made significant contributions to the dialogue on forced migration resulting from climate change.<sup>50</sup> The organization recognizes the "complex nexus" of "climate change, migration, and environmental degradation," and calls for a "holistic approach" in research, policy, and practice that considers other factors including "human security, human and economic development, trade, livelihood strategies and conflict."<sup>51</sup> An expert report published by IOM, *Migration and Climate Change*, provides examples of the ways in which climate change can affect people and eventually cause them to leave their "habitual" home.<sup>52</sup> These factors include drought, "extreme weather events," decreased agricultural yields, migrating fish stocks, health problems, sea level rise, and increased risk of flooding.<sup>53</sup> Noting that "population, poverty, and governance" interact with climate responses and decisions or ability

<sup>41</sup> United Nations Environment Programme [UNEP], *UNEP Climate Change Strategy for the UNEP Programme of Work 2010-2011*, 12, DCP/1119/NA, available at <http://www.unep.org/climatechange/Publications/Publication/tabid/429/language/en-US/Default.aspx?BookID=4006> (last visited Nov. 7, 2009).

<sup>42</sup> *Id.* at 14.

<sup>43</sup> *Id.* at 16.

<sup>44</sup> *Id.* at 20.

<sup>45</sup> See World Health Organization [WHO], *Protecting Health from Climate Change: Global Research Priorities*, (World Health Organization, Geneva, Switzerland) 2009 at ii, 8 available at <http://www.who.int/globalchange/publications/9789241598187/en/index.html> (last visited Nov. 7, 2009) [hereinafter *Global Research Priorities*]. This report, published by WHO, is a product of a global consultation sponsored by the organization. However, the report does not necessarily represent the views or policies of WHO.

<sup>46</sup> World Health Organization [WHO], *WHO Workplan on Climate Change and Health*, available at [http://www.who.int/globalchange/wha\\_plans\\_objectives/en/print.html](http://www.who.int/globalchange/wha_plans_objectives/en/print.html) (last visited Nov. 7, 2009).

<sup>47</sup> *Global Research Priorities*, *supra* note 45, at 16.

<sup>48</sup> *Id.* at 1, 9-10.

<sup>49</sup> *WHO Workplan on Climate Change and Health*, *supra* note 46.

<sup>50</sup> See Oli Brown, *Migration and Climate Change*, (IOM Migration Research Series No. 31, Geneva, Switzerland,) 2008 available at [http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published\\_docs/serial\\_publications/MRS-31.pdf](http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/serial_publications/MRS-31.pdf) (last visited Nov. 7, 2009) (This report, published by IOM, includes a disclaimer that the opinions expressed in the report do not necessarily represent those of the IOM); *Migration, Climate Change and the Environment*, IOM POLICY BRIEF (IOM, Geneva, Switzerland), May 2009.

<sup>51</sup> International Organization for Migration [IOM], *Migration, Climate Change and Environmental Degradation*, <http://www.iom.int/jahia/Jahia/activities/by-theme/migration-climate-change-environmental-degradation> (last visited Nov. 7, 2009).

<sup>52</sup> Brown, *supra* note 50, at 15.

<sup>53</sup> *Id.* at 16-17.

to migrate,<sup>54</sup> this report explains that “migration is (and always has been) an important mechanism to deal with climate stress,”<sup>55</sup> and provides some examples of past climate-induced movements.<sup>56</sup>

Moreover, in a separate publication, IOM questions the assumption that migration represents a “failure of adaptation,”<sup>57</sup> and suggests that migration is also a potential adaptation strategy to climate and environmental change.<sup>58</sup> In this view, migration is a powerful adaptation strategy. It can lessen the “risk to lives, livelihoods and ecosystems, contribute to income diversification and enhance overall capacity of households and communities to cope with the adverse effects of environmental and climate change.”<sup>59</sup> Additionally, the IOM-expert report recognizes that impacts of climate change can include “rapid and unplanned urbanization;” loss of “human capital” from areas losing residents; political instability and ethnic conflict; and health problems, including the spread of epidemics and “greater risk of sexual exploitation” of displaced individuals.<sup>60</sup> Additionally, this report acknowledges that migration can bring “specific gendered impacts,” and that the particular context determines whether migration impairs or improves women’s lives.<sup>61</sup>

For more information on IOM’s work, visit their webpage devoted to migration, climate change, and environmental degradation: <http://www.iom.int/jahia/Jahia/migration-climate-change-environmental-degradation>.

**INTER-AGENCY STANDING COMMITTEE (IASC)**

IASC is an “inter-agency forum for coordination, policy development and decision-making involving the key UN and non-UN humanitarian partners.”<sup>62</sup> Full members of

the committee include UNHCR and WHO and standing invitees include OHCHR and IOM. IASC has engaged in considerable work to address climate change and humanitarian risks. It has released a number of related reports and has directed considerable efforts towards the UNFCCC process, in particular, the Bali Action Plan.<sup>63</sup> Additionally, IASC has advocated for the prioritization of adaptation efforts for “communities where vulnerabilities are highest and where the need for safety and resilience is greatest;”<sup>64</sup> called for improved “understanding of climate change and associated humanitarian impacts;” proposed “formaliz[ing] and streamlin[ing] mechanisms for information ... exchange;” urged the strengthening of inter-agency collaboration; and called for the identification of the “best practices at the regional level to identify activities for replicating and areas where further work is required,” among other activities.<sup>65</sup>

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<http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-about-default> (last visited Nov. 11, 2009).

<sup>63</sup> Examples of the work of IASC include World Food Programme [WFP], International Federation of Red Cross and Red Crescent Societies [IFRC], UN Office for the Coordination of Humanitarian Affairs [OCHA] *Addressing the Humanitarian Challenges of Climate Change Regional and National Perspective, Preliminary Findings from the IASC Regional and National Level Consultations*, available at <http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-news-newsdetails&newsid=134> (follow “Addressing the Humanitarian Challenges of Climate Change – Regional and National Perspectives. Preliminary Findings from the IASC Regional and National Level Consultations” hyperlink) (last visited Nov. 7, 2009) [hereinafter *Addressing the Humanitarian Challenges*]; International Federation of Red Cross and Red Crescent Societies [IFRC], Red Cross / Red Crescent Climate Centre & ProVention Consortium with Ken Westgate, *Climate Change Adaptation Strategies for Local Impact, Key Messages for UNFCCC Negotiators, Technical Paper for the IASC Task Force on Climate Change* (May 2009), available at [unfccc.int/resource/docs/2009/smsn/igo/054.pdf](http://unfccc.int/resource/docs/2009/smsn/igo/054.pdf) (last visited Nov. 7, 2009) [hereinafter *Key Messages*]; Letter from Inter-Agency Standing Committee, Letter to Mr. Yvo de Boer, Executive Secretary, United Nations Framework Convention on Climate Change (April 30, 2009) available at <http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-about-default> (follow “Letter from the IASC Principals to Yvo de Boer, Executive Secretary of the United Nations Framework Convention on Climate Change” hyperlink).

<sup>64</sup> *Key Messages*, supra note 63, at 2.

<sup>65</sup> *Addressing the Humanitarian Challenges*, supra note 63, at 19-21.

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<sup>54</sup> *Id.* at 19-20.

<sup>55</sup> *Id.* at 21.

<sup>56</sup> *Id.* at 25-27.

<sup>57</sup> International Organization for Migration [IOM], Migration, Climate Change and Environmental Degradation, Complete Nexus, <http://www.iom.int/jahia/Jahia/pid/2070> (last visited Nov. 12, 2009) [hereinafter *Complete Nexus*]; see also Brown, supra note 50, at 10, 38.

<sup>58</sup> See Brown, supra note 50, at 38; Complete Nexus, supra note 57.

<sup>59</sup> See Complete Nexus, supra note 57. The organization, however, acknowledges the difficulties raised by migration, both on the migrants and the receiving communities, and notes that migration as a strategy is not available to all groups, because it “depends on resources, information, and other social and personal factors.” *Id.* As a result, those most vulnerable or affected by climate change might not migrate. *Id.*

<sup>60</sup> Brown, supra note 50, at 31-34.

<sup>61</sup> *Id.* at 34-35.

<sup>62</sup> Inter-Agency Standing Committee (IASC), Home Page

# Notes

**1** Second Interagency Workshop on Implementing a Human Rights Based Approach to Development in the Context of UN Reform, Stamford, United States, May 5-7, 2003, *The Human Rights Based Approach to Development Cooperation: Towards a Common Understanding Among the UN Agencies, Introduction*, (May 2003), available at <http://www.undg.org/?P=221> (last visited Nov. 9, 2009) [hereinafter *Common Understanding*]; Renewing the United Nations: A Programme for Reform, G.A. Res. 52/12, U.N. Doc. A/RES/52/12 (Nov. 12, 1997) [hereinafter *Renewing the United Nations*].

**2** Office of the United Nations High Comm'r for Human Rights, *Frequently Asked Questions on a Human Rights-Based Approach to Development and Cooperation*, 16, 16 U.N. Doc. H.R./PUV/06/8 (2006) [hereinafter *Human Rights-Based Approach to Development and Cooperation*]; Mary Robinson, *What Rights Can Add to Good Development Practice*, in HUMAN RIGHTS AND DEVELOPMENT: TOWARDS MUTUAL REINFORCEMENT, 25, 40 (Philip Alston & Mary Robinson, ed., 2005) [hereinafter *Robinson, What Rights Can Add*].

**3** The technical assistance component proposed in this paper is not part of the larger conversation on geopolitical climate justice. While important work is being done in that area, particularly around technology transfers and transfer of funds from developed to developing nations, the technical assistance component suggested here is of a more limited scope, focused on providing training and assistance to governments as they work to apply human rights principles to climate change policy. For an interesting perspective on technology transfer and geopolitical justice see Frederick M. Abbott, *Innovation and Technology Transfer to Address Climate Change: Lessons from the Global Debate on Intellectual Property and Public Health*, Intellectual Property and Sustainable Dev. Series, Issue Paper No. 24, (Int'l Ctr. for Trade and Sustainable Dev., Geneva, Switzerland), June 2009, available at <http://ictsd.net/downloads/2009/07/innovation-and-technology-transfer-to-address-climate-change.pdf> (last visited Nov. 6, 2009).

**4** Coordination might be organized by the Inter-Agency Standing Committee (IASC), for example, and include cooperation among full members such as United Nations Office for the Coordination of Humanitarian Affairs, the United Nations Development Program (UNDP), the United Nations High Commissioner for Refugees (UNHCR), the Food and Agriculture Organization, and many others. See IASC website, available at <http://www.humanitarianinfo.org/iasc/> (last visited Nov. 1, 2009).

**5** The UNFCCC acknowledges that global warming may "adversely affect...humankind," that certain developing countries may be especially vulnerable to the impacts of climate change, and that "responses to climate change should be coordinated with social and economic development" so as to avoid adverse impacts on developing countries. United

Nations Framework Convention on Climate Change, Preamble, May 9, 1982, 1771 U.N.T.S. 107, 165; S. Treaty Doc No. 102-38 (1992); U.N. Doc. A/AC.237/18 (Part II)/Add.1; 31 I.L.M. 849 (1992) [hereinafter UNFCCC]. The UNFCCC also specifically defines the "adverse impacts of climate change" to include "serious deleterious effects... on the operation of socio-economic systems or on human health and welfare." *Id.* at art. 1. Additionally, UNFCCC speaks to the need for adaption, including a commitment by countries to "[c]ooperate in preparing for adaption to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods." *Id.* at art. 4(1) (e). The Kyoto Protocol also acknowledges the impacts that climate change can have on people, stating that the "Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of...social, environmental and economic impacts on other Parties, especially developing country Parties." Kyoto Protocol to the United Nations Framework Convention on Climate Change art. (2)(3) Dec. 10, 1997, U.N. Doc FCCC/CP/1997/7/Add.1, 37 I.L.M. 22 (1998) [hereinafter *Kyoto Protocol*]. Additionally, the Kyoto Protocol recognizes the need for adequate adaptation to climate change to address these impacts on people. *Id.* at art. 10(b). A version of the Copenhagen negotiating text also acknowledges human impacts of climate change. In particular, paragraph 13 of Non-paper 41 references the need for increased international adaptation efforts, specifically with respect expanding work under the Nairobi Work Programme, and in relation to migration, displacement, and planned relocation of people impacted by climate change. Ad Hoc Working Group on Long-Term Cooperative Action Under the Convention, *Non-paper 41, Contact Group on Enhanced Action on Adaptation and its Means of Implementation*, ¶13 (Nov. 5, 2009).

Positive developments in this area include the adoption of adaptation policies in the Bali Action Plan, and the UN Human Rights Council's resolution requesting that the Office of the High Commissioner for Human Rights conduct an analytical study of the relationship between climate change and human rights. See UNFCCC, Conference of the Parties, Decision 1/CP.13, *Bali Action Plan*, in Report of the Conference of the Parties on its Thirteenth Session, held in Bali from 3 to 15 December 2007, at 3, U.N. Doc. FCCC/CP/2007/6/Add.1 (Mar. 13, 2008) [hereinafter *Bali Action Plan*]; Human Rights Council, Resolution 7/23, *Human Rights and Climate Change*, ¶ 15, U.N. Doc. A/HRC/RES/7/23 (Mar. 28, 2008); Anne Parsons, *Human Rights and Climate Change: Shifting the Burden to the State?*, 9 Sustainable Dev. L. & Pol'y 22, 22 (2009); INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY, CLIMATE CHANGE AND HUMAN RIGHTS: A ROUGH GUIDE 2 n.3 (2008) [hereinafter

ROUGH GUIDE]. The Office of the High Commissioner for Human Rights responded to the UN Human Rights Council's request in its annual report in January 2009. Office of the High Commissioner for Human Rights [OHCHR], *Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General, Report of the Office of the United Nations High Commissioner for Human Rights on the Relationship Between Climate Change and Human Rights*, U.N. Doc. A/HRC/10/61 (Jan. 15, 2009) available at <http://www.ohchr.org/EN/NewsEvents/Pages/OHCHRanalyticalstudyClimateChange.aspx> (last visited Nov. 10, 2009) [hereinafter *Climate Change and Human Rights*].

**6** Intergovernmental Panel on Climate Change [IPCC], *Summary for Policymakers*, in *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* (Parry, M.L., Canziani, O.F., Palutikof, J.P., van der Linden, P.J., & Hanson, C.E. eds., Cambridge University Press, Cambridge, UK, 2007) [hereinafter *Summary for Policymakers*].

**7** *Id.* at 11.

**8** The IPCC states that “[t]here is increasing evidence of greater vulnerability of specific groups such as the poor and elderly, not only in developing but also in developed countries.” *Id.* at 19; see also U.N. Committee for Development Policy, Department of Economic and Social Affairs, *Policy Note, Achieving Sustainable Development in an Age of Climate Change* at 5, U.N. Publishing Section, New York (January 2009) [hereinafter *Policy Note*]; *Climate Change and Human Rights*, *supra* note 5; Global Humanitarian Forum, *Climate Change-The Anatomy of a Silent Crisis*, 58, 2009 available at [http://ghfgenova.org/Portals/0/pdfs/human\\_impact\\_report.pdf](http://ghfgenova.org/Portals/0/pdfs/human_impact_report.pdf) (last visited Nov. 6, 2009) [hereinafter *Silent Crisis*]; Oxfam Int’l, *Suffering the Science: Climate Change, People and Poverty*, 130 Oxfam Briefing Paper, July 6, 2009 available at <http://www.oxfam.org/en/campaigns/agriculture/biofuels> (last visited Nov. 6, 2009) [hereinafter *Suffering the Science*]; NICHOLAS STERN, *THE ECONOMICS OF CLIMATE CHANGE: THE STERN REVIEW* vii (2006) available at [http://www.hm-treasury.gov.uk/stern\\_review\\_report.htm](http://www.hm-treasury.gov.uk/stern_review_report.htm) (last visited Nov. 5, 2009).

**9** ROUGH GUIDE, *supra* note 5, at 2; *Summary for Policymakers*, *supra* note 6, at 10-11.

**10** ROUGH GUIDE, *supra* note 5, at 2. This is in part because the robustness of climate projections declines with greater geographic and temporal specificity. In other words, warming trends in Africa over the next one hundred years can be predicted with much greater confidence than the average annual rainfall for the next five years in Mozambique. This was noted in the Convention preamble: “Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing,

magnitude and regional patterns thereof.” UNFCCC, *supra* note 5, at Preamble.

**11** ROUGH GUIDE, *supra* note 5, at 2-3.

**12** See *id.* at 3, which notes that because the IPCC Reports are “essentially literature reviews,” the “vacuum” of “rights references” in the IPCC reports therefore demonstrates the “vacuum” of “rights references” in climate change literature.

**13** Article 4 includes commitments to cooperate with respect to adaptation preparation; to attempt to minimize the adverse effects of climate change policies on human health and the economy; to promote cooperative exchange of scientific, socio-economic, and technological information; and to cooperate with respect to educational and training efforts. UNFCCC, *supra* note 5, at art. 4(1)(e), (f), (h). Article 4 also recognizes the responsibility of developed country Parties to assist developing country Parties that are especially vulnerable to climate change in their adaptation efforts, and to transfer technology to developing country Parties to help with implementation of the Convention. UNFCCC, *supra* note 5, at art. 4(4), (5).

**14** The primary objective of the Nairobi Work Programme is to assist all Parties to the UNFCCC, particularly developing nations, to “improve their understanding and assessment of impacts, vulnerability and adaptation to climate change,” and to “make informed decisions on practical adaptation actions and measures to respond to climate change on a sound scientific, technical and socio-economic basis, taking into account current and future climate change variability.” UNFCCC Secretariat, Nairobi Work Programme, available at [http://unfccc.int/adaptation/sbsta\\_agenda\\_item\\_adaptation/items/3633.php](http://unfccc.int/adaptation/sbsta_agenda_item_adaptation/items/3633.php) (last visited Nov. 6, 2009); see also UNFCCC Conference of the Parties, Decision 2/CP.11, *Five-year Programme of Work of the Subsidiary Body for Scientific and Technological Advice on Impacts, Vulnerability and Adaptation to Climate Change*, in Report of the Conference of the Parties on its Eleventh Session, held at Montreal from 28 November to 10 December 2005, Addendum, Part Two: Action Taken by the Conference of the Parties at its Eleventh Session, U.N. Doc. FCCC/CP/2005/5/Add.1 (Mar. 30, 2006).

**15** *Bali Action Plan*, *supra* note 5. The Bali Action Plan reinforced and reemphasized previous commitments in both the UNFCCC and the Kyoto Protocol to consider the social and economic impacts of climate change response measures. See UNFCCC, *supra* note 5, art. 4(f), (h), and Kyoto Protocol, *supra* note 5, at art. 10(d) and art. 13(a).

**16** *Bali Action Plan*, *supra* note 5, at ¶ 1 (c)(i).

**17** Robinson, *What Rights Can Add*, *supra* note 2, at 25, 40.

**18** *Id.* at 25, 40; *Human Rights-Based Approach to Development and Cooperation*, *supra* note 2, at 15-16.

**19** *Common Understanding*, *supra* note 1, at 3.

**20** *Id.* at 1.

**21** *Id.* at 3.

**22** *Id.*

**23** *Id.* at 2-3.

**24** Mary Robinson, UN High Comm'r for Human Rights, *Bridging the Gap Between Human Rights and Development: From Normative Principles to Operational Relevance*, Presidential Address to the World Bank (Dec. 3, 2001) available at <http://www.unhchr.ch/Hurricane/Hurricane.nsf/60a520ce334aaa77802566100031b4bf/2da59cd3ffc033dcc1256b1a0033f7c3?OpenDocument> (last visited Nov. 6, 2009).

**25** *Human Rights-Based Approach to Development and Cooperation*, *supra* note 2, at 15.

**26** *Common Understanding*, *supra* note 1, at 1.

**27** Robinson, *What Rights Can Add*, *supra* note 2, at 40.

**28** UNFCCC, *supra* note 5, at art. 4, ¶¶ 4, 9.

**29** Each state has an “obligation to move as expeditiously and effectively as possible,” “to the maximum of its available resources.” See Committee on Economic, Social and Cultural Rights, *General Comment 3, The Nature of States Parties Obligations (Art. 2, Para. 1 of the Covenant)*, ¶ 9 (Fifth Session 1990) [hereinafter *General Comment 3*].

**30** *Id.* at ¶¶ 13-14. OHCHR has explicitly acknowledged that “[h]uman rights standards and principles are consistent with and further emphasize the principle of common but differentiated responsibilities contained in the United Nations Framework Convention on Climate Change.” *Climate Change and Human Rights*, *supra* note 5, at 28. See also *General Comment 3* which states that

the undertaking given by all States parties is ‘to take steps, individually and through international assistance and cooperation, especially economic and technical ...’

...

[and] in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the Covenant itself, international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist others in this regard. ...”

*General Comment 3*, *supra* note 29, ¶¶ 13-14.

**31** The Secretary-General, *Renewing the United Nations: a Programme for Reform*, ¶¶ 175, 274, U.N. Doc. A/51/1950 (July 14, 1997); see also *Renewing the United Nations*, *supra* note 1; *Common Understanding*, *supra* note 1, at 1.

**32** For example, UNDP and OHCHR developed the Human Rights Strengthening (HURIST) program in 1999. The program’s principle purposes “are to test guidelines and methodologies and to identify best practices and learning opportunities in the development of national capacity for the promotion and protection of human rights

and in the application of a human rights approach to development programming.” United Nations Development Programme & Office of the High Comm’r for Human Rights, *Human Rights Strengthening – HURIST, Brief Description*, U.N. Doc. GLO/99/615/A/11/31 (April 1999), available at <http://mirror.undp.org/magnet/Docs/hr/HURISTNO.htm> (last visited Nov. 5, 2009); see also United Nations Development Programme, *Democratic Governance, HURIST: The Human Rights Strengthening Programme*, <http://www.undp.org/governance/programmes/hurist.htm> (last visited Nov. 5, 2009); UNFPA Human Rights-Based Approach, available at <http://www.unfpa.org/rights/approaches.htm> (last visited Nov. 6, 2009); UNICEF Rights and Results, available at <http://www.unicef.org/rightsresults/index.html> (last visited Nov. 6, 2009); UNDP A Human Rights-Based Approach to Development Planning, available at <http://www.undg.org/?P=221> (last visited Nov. 6, 2009).

**33** The 2007 Bali Action Plan is an important start to mobilize attention to human impacts of climate change in the COP process, see *supra* note 15, and accompanying text.

**34** See International Covenant on Civil and Political Rights, art. 19(2), 22(1), GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966); 999 UNTS 171; 6 ILM 368 (1967).

**35** See Human Rights Committee of the International Covenant on Civil and Political Rights, *General Comment No. 28, Equality of Rights Between Men and Women (Art. 3 of the Covenant)*, ¶¶ 3, 7, CCPR/C/21/Rev.1/Add.10, (2000) available at <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%2913b02776122d4838802568b900360e80?OpenDocument> (last visited Nov. 7, 2009), noting that a “State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women,” and that the “equal enjoyment of human rights by women must be protected during a state of emergency;” International Covenant on Economic, Social and Cultural Rights, *General Comment No. 4, The Right to Adequate Housing (Art. 11(1) of the Covenant)*, ¶ 1, 13/12/91, (Sixth Session, 1991) available at <http://www.unhchr.ch/tbs/doc.nsf/0/469f4d91a9378221c12563ed0053547e?OpenDocument> (last visited Nov. 7, 2009), noting that the “human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights;” International Covenant on Economic, Social and Cultural Rights, *General Comment No. 14, The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, ¶¶ 1, 3, E/C.12/2000/4, (Twenty-second Session, 2000), available at <http://www.unhchr.ch/tbs/doc.nsf/0/40d009901358b0e2c1256915005090be?OpenDocument> (last visited Nov. 7, 2009), noting that health is an indispensable, fundamental human right, “closely related and dependent upon the realization of other rights;” International Covenant on Economic, Social and Cultural Rights, *General Comment*

No. 12, *The Right to Adequate Food (Art. 11 of the Covenant)*, ¶ 1, E/C.12/1999/5, (Twentieth Session, 1999), available at <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9> (last visited Nov. 7, 2009), noting that the “human right to adequate food is of crucial importance for the enjoyment of all rights;” International Covenant on Economic, Social and Cultural Rights, *General Comment No. 15, The Right to Water (Arts. 11 and 12 of the Covenant)*, ¶ 1, E/C.12/2002/11, (Twenty-ninth Session, 2002), available at <http://www.unhchr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?OpenDocument> (last visited Nov. 7, 2009), noting that the right to water is a “prerequisite for the realization of other human rights.”

**36** *Climate Change and Human Rights*, *supra* note 5. See also ROUGH GUIDE, *supra* note 5, at 51-52; FOOD AND AGRICULTURE ORGANIZATION, *THE RIGHT TO FOOD AND THE IMPACT OF LIQUID BIOFUELS (AGROFUELS) 12-19* (2008) (discussing the ways in which biofuel cultivation can impact access to food, as well potential impacts on land holdings, labor conditions, and the environment); Oxfam Int’l, *Agriculture Campaign, Biofuels*, available at <http://www.oxfam.org/en/campaigns/agriculture/biofuels> (last visited Nov. 6, 2009) [hereinafter *Oxfam Agriculture Campaign*]; FOOD AND AGRICULTURE ORGANIZATION, *THE STATE OF FOOD AND AGRICULTURE 2008, BIOFUELS: PROSPECTS, RISKS AND OPPORTUNITIES, CHAPTER 6, IMPACTS ON POVERTY AND FOOD SECURITY 72-86* (2008). Brazil and China were among the highest biofuel producers in 2007. Other major producers currently include Canada, India, and Indonesia. *Id.* at 15.

**37** The shift to biofuel feedstock is thought to be one of the reasons for the sharp increase in food prices in recent years. *Policy Note*, *supra* note 8, at 9.

**38** ROUGH GUIDE, *supra* note 5, at 51-52.

**39** Frank Biermann and Ingrid Boas, *The Global Governance Project, Preparing for a Warmer World, Towards a Global Governance System to Protect Climate Refugees, Global Governance Working Paper No 33 11-14* (2007), available at [www.glogov.org](http://www.glogov.org) (last visited Nov. 5, 2009); see also Norman Myers, *Environmental Refugees: A Growing Phenomenon of the 21<sup>st</sup> Century*, 360 PHIL. TRANS. R. SOC. B 13-20 (Jan. 29, 1991).

**40** See Alyson Brody, Justina Demetriades & Emily Esplen, *Gender and Climate Change: Mapping the Linkages* (March 2008) (describing the ways in which gender inequalities can exacerbate the impacts of climate change on both men and women, and discussing the important contributions that affected communities can make to the decision making process), available at [http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/DFID\\_Gender\\_Climate\\_Change.pdf](http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/DFID_Gender_Climate_Change.pdf) (last visited Nov. 12, 2009).

**41** Kyoto Protocol, *supra* note 5, at art. 12; UNFCCC, *Clean Development Mechanism*, available at <http://cdm.unfccc.int/about/index.html> (last visited Nov. 6, 2009);

BARBARA HAYA, *FAILED MECHANISM: HOW THE CDM IS SUBSIDIZING HYDRO DEVELOPERS AND HARMING THE KYOTO PROTOCOL* (International Rivers, Nov. 2007).

**42** Hydro projects account for 25% of all CDM projects awaiting approval or already approved. *Id.* at 3.

**43** Permit applicants need only apply their respective national standards of sustainable development to their CDM projects. *Id.* at 7; see also Ulrike Röhr, *Gender Aspects of Climate Induced Conflicts*, SPECIAL ISSUE, GENDER, ENVIRONMENT, CONFLICT (Environment, Conflict and Cooperation Newsletter, Berlin, Germany), May 2007, at 3-4; available at [http://www.ecc-platform.org/index.php?option=com\\_content&task=view&id=986](http://www.ecc-platform.org/index.php?option=com_content&task=view&id=986) (last visited Nov. 5, 2009).

**44** HAYA *supra* note 41, at 8. Substantial areas of land are generally submerged in dam catchment areas that often cause large-scale displacement of people. Esther Duflo & Rohini Pande, *Dams*, 122 Q.J. ECON. 601, 607 (May 2007).

**45** One example of a cookstove initiative is the Darfur Stoves Project, implemented by Technology Innovation for Sustainable Societies, see Darfur Stoves Project, <http://darfurstovesproject.org> (last visited Nov. 9, 2009).

**46** *Id.*

**47** Adaptation can be defined as “[a]djustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities.” UNFCCC Secretariat, *Glossary of climate change acronyms*, available at [http://unfccc.int/essential\\_background/glossary/items/3666.php](http://unfccc.int/essential_background/glossary/items/3666.php) (last visited Nov. 6, 2009).

**48** Brody, Demetriades & Esplen, *supra* note 40, at 4-5.

**49** Canadian International Development Association, *Gender Equality and Climate Change, Why Consider Gender Equality when Taking Action on Climate Change?*, 2, available at [www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/Climate%20change3/\\$file/Gender-2.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/Climate%20change3/$file/Gender-2.pdf) (last visited Nov. 6, 2009) [hereinafter *Gender Equality and Climate Change*].

**50** Brody, Demetriades & Esplen, *supra* note 40, at 5; see also *Gender Equality and Climate Change*, *supra* note 49.

**51** Brody, Demetriades & Esplen, *supra* note 40, at 3; Gender CC- Women for Climate Justice & LIFE, *Gender Aspects and Action Points Concerning Articles 2 and 4 of the UNFCCC Convention*, 1 (Joint Submission by Gender CC- Women for Climate Justice & LIFE on Matters Relating to Article 4, Paragraph 8 and 9, of the Convention: Progress on the Implementation of Decision 1/CP.10 (SBI)).

**52** UN Women Watch, *Fact Sheet, Women, Gender Equality and Climate Change*, 2 (2009), available at [http://www.un.org/womenwatch/feature/climate\\_change/](http://www.un.org/womenwatch/feature/climate_change/) (last visited Nov. 6, 2009).

**53** *Silent Crisis*, *supra* note 8, at 54; for a general discussion of how climate change may result in

displacement, *see id.* at 46-51.

**54** Francois Gemenne & Philip Reuchlin, *Climate Change and Displacement, Case Study, Central Asia*, in 31 FORCED MIGRATION REV., 14-15 (Oct. 2008); VIKRAM ODEDRA KOLMANNSSKOG, NORWEGIAN REFUGEE COUNCIL, FUTURE FLOODS OF REFUGEES, A COMMENT ON CLIMATE CHANGE, CONFLICT AND FORCED MIGRATION 15-17 (Apr. 2008).

**55** *Silent Crisis*, *supra* note 8, at 54.

**56** The negative human rights impacts on those who must relocate due to climate change are likely to be similar to those experienced by internally displaced persons, refugees, or those crossing borders due to natural disasters. Francis M. Deng, *Further Promotion and Encouragement of Human Rights and Fundamental Freedoms, Including the Question of the Programme and Methods of Work of the Commission, Human Rights, Mass Exodus and Displaced Persons, Internally Displaced Persons*, U.N. Doc. E/CN.4/1995/50 (Feb. 2, 1995), available at <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/6dcf5dc21f7c511d8025671300398bc0?OpenDocument> (last visited Nov. 7, 2009). Additionally, the links between climate change and conflict have been asserted by a number of NGOs, government agencies, and other researchers. For example, International Alert has noted that climate change and violent conflict creates a “double-headed problem” for many of the world’s most vulnerable nations. DAN SMITH & JANANI VIVEKANANDA, INTERNATIONAL ALERT, A CONFLICT OF CLIMATE, THE LINKS BETWEEN CLIMATE CHANGE, PEACE AND WAR 3 (Nov. 2007). International Alert also draws attention to the connection between adaptation responses and conflict, noting that “peacebuilding and adaptation are effectively the same kind of activity, involving the same kinds of methods of dialogue and social engagement, requiring from governments the same values of inclusivity and transparency.” *Id.* at 4. *See also* KOLMANNSSKOG, *supra* note 54.

**57** Michelle Leighton, *Migration and Slow-Onset Disasters: Desertification and Drought*, in MIGRATION, ENVIRONMENT AND CLIMATE CHANGE: ASSESSING THE EVIDENCE (Frank Laczko & Christine Aghazarm eds., IOM 2009). *See generally* MIGRATION, ENVIRONMENT AND CLIMATE CHANGE: ASSESSING THE EVIDENCE (Frank Laczko & Christine Aghazarm eds., 2009).

**58** U.N. High Comm’r for Refugees [UNHCR], *Climate Change, Natural Disasters and Human Displacement: A UNHCR perspective*, 5 (Aug. 14, 2009), available at <http://www.unhcr.org/4901e81a4.html> (last visited Nov. 4, 2009) [hereinafter *UNCHR Perspective*].

**59** *Id.* at 5.

**60** *Id.* at 5-6.

**61** The UNFCCC Conference of the Parties adopted a decision on Reduction of Emissions from Deforestation and Degradation at the 13<sup>th</sup> Conference of the Parties in Bali. UNFCCC, Conference of the Parties, Decision 2/CP.13,

Reducing Emission from Deforestation in Developing Countries: Approaches to Stimulate Action. *See Bali Action Plan*, *supra* note 5, at 8. The economic, social, and cultural rights of millions of people are closely tied to forest goods and resources. Frances Seymour, *Forests, Climate Change, and Human Rights: Managing Risk and Trade-offs*, in HUMAN RIGHTS AND CLIMATE CHANGE (forthcoming Stephen Humphreys ed., Cambridge University Press, Dec. 2009). Because of this close connection, there is a high possibility “for policy initiatives taken in response to climate change to have unintended negative consequences for human rights.” Seymour, *supra*. Specifically, the Internal Forum of Indigenous Peoples on Climate Change has expressed concern that REDD programs will lead to loss of indigenous lands and resources, cause forced evictions, threaten traditional agricultural practices, negatively impact cultural diversity, and increase social conflicts. *Id.* For these reasons, REDD policies serve as another example of mitigation policies that may have serious implications for the enjoyment of human rights, particularly for traditionally marginalized groups. *See also*, ROUGH GUIDE, *supra* note 5, at 32-33; International Forum of Indigenous Peoples on Climate Change, *Statement by the International Forum of Indigenous Peoples on Climate Change (IFIPCC) on ‘Reduced Emissions from Deforestation and Forest Degradation’ (REDD) Agenda Item at the UNFCCC Climate Negotiations, The 13th Session of Conference of the Parties to the UNFCCC SBSTA 27, agenda item 5/REDD* (Nov. 2007); TOM GRIFFITHS, FOREST PEOPLES PROGRAMME, SEEING ‘REDD’? FORESTS, CLIMATE CHANGE MITIGATION AND THE RIGHTS OF INDIGENOUS PEOPLES AND LOCAL COMMUNITIES (May 2009).

**62** *See infra*, Human Rights Implications of Adaptation and Mitigation Policies for examples.

**63** *See* Appendix B for illustrative discussion of the work of UN agencies and international bodies.

**64** World Health Organization [WHO], *WHO Workplan on Climate Change and Health* Home Page, [http://www.who.int/globalchange/wha\\_plans\\_objectives/en/print.html](http://www.who.int/globalchange/wha_plans_objectives/en/print.html) (last visited Nov. 7, 2009).

**65** International Organization for Migration [IOM], *Migration, Climate Change and Environmental Degradation, a Complete Nexus* Home Page, <http://www.iom.int/jahia/Jahia/pid/2070> (last visited Nov. 7, 2009) [hereinafter *IOM Webpage*].

**66** *Climate Change and Human Rights*, *supra* note 5, at 11.

**67** *Id.* at 11.

**68** WORLD HEALTH ORGANIZATION, *PROTECTING HEALTH FROM CLIMATE CHANGE: GLOBAL RESEARCH PRIORITIES 10* (2009).

**69** *See* Appendix B for further discussion.

**70** *See* Appendix B for further discussion.

**71** *UNHCR Perspective*, *supra* note 58, at 9.

**72** *Climate Change and Human Rights*, note 5, at ¶ 84.

Additionally, the World Health Assembly (WHA) passed a resolution in 2009 calling upon the WHO to work across the UN, international agencies, and member states to ensure that “health impacts and their resource implications are understood and can be taken into account” in future national and international climate change policymaking, World Health Organization [WHO], *Climate Change and Health, Resolution of the Sixty-First World Health Assembly*, 2, WHA 61.19 (May 24, 2008), available at [http://apps.who.int/gb/ebwha/pdf\\_files/WHA61-REC1/A61\\_Rec1-part2-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA61-REC1/A61_Rec1-part2-en.pdf) (last visited Nov. 4, 2009) [hereinafter *World Health Assembly*].

**73** World Food Programme [WFP], Int’l Fed’n of Red Cross and Red Crescent Soc’ys [IFRC], U.N. Office for the Coordination of Humanitarian Affairs [OCHA], *Addressing the Humanitarian Challenges of Climate Change: Regional and National Perspectives, Preliminary Finds from the IASC Regional and National Level Consultations*, 21, SU/0909/3213, (Sept. 9, 2009), available at <http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-subsi-di-common-default&sb=76> (last visited Nov. 4, 2009).

**74** *General Comment 3, The Nature of States Parties Obligations (Article 2 para. 1 of the Covenant)*, ¶ 14, (1990), cited in *Climate Change and Human Rights*, *supra* note 5, at 28.

**75** See Appendix B.

**76** *Climate Change and Human Rights*, *supra* note 5; see Appendix B. Also, the WHA calls on member states to “consider the health impacts of potential mitigation and adaptation measures, see *World Health Assembly*, *supra* note 72.

**77** See *UNHCR Perspective*, *supra* note 58; IOM Webpage, *supra* note 65.

**78** See *UNHCR Perspective*, *supra* note 58; IOM Webpage, *supra* note 65.

**79** *UNHCR Perspective*, *supra* note 58, at 10.

**80** One additional model, not explored in this paper is to link consideration of human impacts of climate change by the UNFCCC by giving an explicit mandate to existing UN human rights agencies such as OHCHR, UNHCR, or IOM individually or collectively to develop principles, organize information sharing, and provide technical support.

**81** “Human Rights Impact Assessment (HIRA) measures the impacts of policies, programmes, projects and interventions on human rights.” Human Rights Impacts Resource Center, An Introduction to Human Rights Impact Assessment, [hereinafter Human Rights Impact Assessment] available at <http://www.humanrightsimpact.org/hria-guide/overview/> (last visited Nov. 5, 2009). HIRA can be used to assess the unintended and indirect negative impacts that actions may have on human rights. *Id.*

**82** See Brody, Demetriades & Esplen, *supra* note 40 (discussing the disproportionate impacts that climate

change can have on women, and some of the ways in which the application of human rights principles to the formulation of climate change policies can ameliorate these impacts).

**83** UN Economic Commission for Europe, *UN Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (June 25, 1998).

**84** Svitlana Kravchenko, *The Aarhus Convention and Innovations in Compliance with Multilateral Environmental Agreements*, 18 COLO. J. INT’L ENVTL L. & POL’Y 1, 6 (2007). Appropriate adjustments might be necessary to account for the difference in these processes; the outcome of the Aarhus Convention was an international a treaty, while the proposal here is for a voluntary process.

**85** See UNFCCC, Civil Society and the Climate Change Process, [http://unfccc.int/parties\\_and\\_observers/ngo/items/3667.php](http://unfccc.int/parties_and_observers/ngo/items/3667.php) (last visited Nov. 11, 2009) (explaining that “[c]ivil society engages with the climate change process through representative non-governmental organizations”); UNFCCC Secretariat, *Promoting Effective Participation in the Convention Process*, ¶ 12, U.N. Doc. FCCC/SBI/2004/5 (Apr. 16, 2004) (describing NGO participation as a “fundamental element of the Convention process” that increases transparency, facilitates input from diverse perspectives, increases understanding of climate change issues within the general public, and promotes accountability). The Kyoto Protocol negotiations provide a good example of NGO participation. Working within the coordinated framework of the Climate Action Network (CAN), environmental NGO (ENGO) representatives attended at least two of the Kyoto negotiating sessions, met with country delegation members to discuss strategy, caucused to share information and debate issues, and delivered statements during plenary sessions, among many other activities. Michele M. Betsill, *Environmental NGOs and the Kyoto Protocol Negotiations: 1995-1997*, in NGO DIPLOMACY: THE INFLUENCE OF NONGOVERNMENTAL ORGANIZATIONS IN INTERNATIONAL ENVIRONMENTAL NEGOTIATIONS 43, 48-49 (Michele M. Betsill & Elisabeth Corell eds., 2008).

**86** See Center for International Environmental Law, Friedrich-Ebert Stiftung, *Human Rights and Climate Change: Practical Steps for Implementation*, Feb. 25, 2009, available at [http://www.ciel.org/Publications/CCandHRE\\_Feb09.pdf](http://www.ciel.org/Publications/CCandHRE_Feb09.pdf) (last visited Nov. 6, 2009) (discusses the human rights impacts of response policies); International Work Group for Indigenous Affairs et al., *Joint Indigenous Peoples and NGO Statement on the Occasion of the Presentation of the Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the Relationship between Climate Change and Human Rights* (Mar. 12, 2008), available at [http://www.forestpeoples.org/documents/law\\_hr/un\\_ohchr\\_ngo\\_climate\\_statement\\_mar09\\_eng.pdf](http://www.forestpeoples.org/documents/law_hr/un_ohchr_ngo_climate_statement_mar09_eng.pdf) (last visited

Nov. 6, 2009) (states that mitigation measures like agrofuel plantations and large hydroelectric dams violate their rights, and urges the consideration of indigenous peoples in the development of mitigation and adaptation strategies); Letter from Advocates for Environmental Human Rights et al., to Barack Obama, President of the United States of America (Oct. 22, 2009), available at <http://www.law.berkeley.edu/files/Letter.to.Obamare.COP15.pdf>, <http://www.facebook.com/home.php?#/group.php?gid=191377161958&v=info&ref=mf>, (urging the President to consider the human rights impacts of climate change policies); *Oxfam Agriculture Campaign*, *supra* note 36 (explaining the societal harms of biofuel production); *ROUGH GUIDE*, *supra* note 5 (groundbreaking report outlines the human rights impacts of climate change and climate change policy, and the benefits of applying a human rights lens to both; in particular, the report focuses on the human rights consequences of Emissions Trading and the Clean Development Mechanism, biofuel substitution programs, and Reduced Emissions from Deforestation and Degradation); Ryan Schuchard and Nicki Weston, *The Nexus of Climate Change and Human Rights*, *Climate Biz: The Business Resource for Climate Management*, (June 25, 2009), <http://www.climatebiz.com/blog/2009/06/25/nexus-climate-change-and-human-rights> (last visited Nov. 6, 2009) (This green business blog notes that mitigation policies aimed at carbon reduction have had “unintended human rights consequences for vulnerable populations in those communities.” Businesses must make hard decisions about land use, access to natural resources, and opportunities for economic development.”); *Silent Crisis*, *supra* note 8, at 76, 80, 89 (warning that introducing drought-resistant seeds might lead to malnutrition if the nutrient contents of the new crops are not considered; that emissions transfer schemes benefit “emerging economies” and not communities in greatest need; and that proposed global carbon pricing systems have the potential to “create yet another burden for the poor.” The paper calls for “humanitarian and development actors” carrying out prevention and preparedness efforts to consider the socio-economic, cultural, and environmental parameters of each community affected.)

This list is not exhaustive and, in particular, may ignore the work of key civil society groups in non-English speaking countries. It suggests, however, that civil society organizations have begun to articulate concerns about the connection between climate change policy and human rights. Other notable groups working more generally on “climate justice” issues are: the Global Humanitarian Forum, available at <http://www.ghf-geneva.org/OurWork/RaisingAwareness/ClimateJustice/tabid/181/Default.aspx> (last visited Nov. 11, 2009) (whose Board President is former Secretary-General Kofi Annan); International Rivers, available at [www.internationalrivers.org](http://www.internationalrivers.org) (last visited Nov. 11, 2009) (an NGO that, in part, works to raise “awareness that efficiency and small-scale, decentralized and renewable solutions are essential for meeting water

and energy needs, alleviating poverty and protecting the planet”); Realizing Rights: the Ethical Globalization Initiative’s program on Climate Justice, available at <http://www.realizingrights.org/?option=content&task=view&id=414&Itemid=88> (last visited Nov. 11, 2009) (group is directed by Mary Robinson, former President of Ireland and former UN High Commissioner for Human Rights); tck, tck, tck, Time for climate justice campaign, available at <http://tcktcktck.org/> and <http://www.timeforclimatejustice.org/> (last visited Nov. 11, 2009), (partners include the Global Humanitarian Forum; the Campaign is building an online grassroots campaign aimed at the COP 15 meetings); The UN Non-governmental Liaison Service [NGLS], Gender CC Webpage <http://www.gendercc.net/> (last visited Nov. 11, 2009) (launched to serve as a “platform for information, knowledge and networking on gender and climate change;” the NGLS also partnered with the Tck tck tck campaign to host a “multistakeholder roundtable discussion on Sept. 23, 2009, see <http://www.un-ngls.org/spip.php?article1625> (last visited Nov. 11, 2009)); 350.org, available at [www.350.org](http://www.350.org) (last visited Nov. 11, 2009) (an international campaign “dedicated to building a movement to unite the world around solutions to the climate crisis – the solutions that science and justice demand,” which reports that, on October 24, 2009, it organized people in 181 countries around the world who gathered “to call for action on the climate crisis”). See also <http://www.actforclimatejustice.org/about/what-is-climate-justice/> for another example of the diversity of climate justice approaches and constituencies.

**87** U.N. Econ. & Soc. Council [ECOSOC], Comm. on Econ. Soc. & Cultural Rights, *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, U.N. Doc. E/C.12/2000/13 (Oct. 2, 1997) [hereinafter *Maastricht Guidelines*].

**88** *Id.* at Appendix A.

**89** *Id.* at Introduction.

**90** *Id.* (For further discussion of the purpose, see Victor Dankwa, Cees Flinterman & Scott Leckie, *Commentary to the Maastricht Guidelines on Violations of Economic, Cultural and Social Rights*, 20 *HUM. RTS Q.* 705, 708 (1998)).

**91** *Maastricht Guidelines*, *supra* note 87, at Introduction.

**92** See *Kyoto Protocol*, *supra* note 5, art. 2(1)(b), art 10 (b)(ii)(e); *Summary for Policymakers*, *supra* note 6.

**93** See *Summary for Policymakers*, *supra* note 6. The IPCC provides an impressive example of information sharing and gathering. Aggregating the work of thousands of scientists worldwide, providing academic review, and acting as a clearinghouse, the IPCC has been tremendously successful in synthesizing the vast research conducted around climate change science and impacts. With a relatively small organizational size, the sheer quantity of information that the IPCC is able to review and assess within this structure is noteworthy.

**94** See *Summary for Policymakers*, *supra* note 6.

**95** *Human Rights Impact Assessment*, *supra* note 81.

**96** The Hyogo Framework is offered as an example, not as a prescriptive model for the Process. *Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disaster*, UN Doc. A/CONF.206/6 (2005).

**97** INTERNATIONAL STRATEGY FOR DISASTER REDUCTION, SUMMARY OF THE HYOGO FRAMEWORK FOR ACTION 2005-2015: BUILDING THE RESILIENCE OF NATIONS AND COMMUNITIES TO DISASTERS (HYOGO FRAMEWORK) 1 (2005), available at <http://www.unisdr.org/eng/hfa/hf-summary.htm> (last visited Nov. 7, 2009).

**98** Hyogo Framework Monitor, <http://www.preventionweb.net/english/hyogo/hfa-monitoring/hfa-monitor/> (last visited Nov. 1, 2009).

**99** *Id.*

**100** *Id.*

**101** Hyogo Framework for Action Progress Reports, <http://www.preventionweb.net/english/hyogo/progress/reports/?pid:222&pil:1> (last visited Nov. 7, 2009).

**102** Hyogo Framework for Action, Key Documents, <http://www.preventionweb.net/english/hyogo/key-documents/?pid:34&pil:1> (last visited Nov. 7, 2009). The Hyogo Framework website is contained within the larger Prevention Web website, which provides additional information about disaster-related efforts. See [www.preventionweb.net](http://www.preventionweb.net).

**103** Hyogo Framework Monitor, *supra* note 98; Global Platform for Disaster Risk Reduction, <http://www.preventionweb.net/globalplatform/2009/> (last visited Nov. 7, 2009).

**104** Hyogo Framework, National Platforms, <http://www.preventionweb.net/english/hyogo/national/list/?pid:23&pih:2> (last visited Nov. 7, 2009).

**105** Hyogo Framework, National Platform Key Events, <http://www.preventionweb.net/english/hyogo/national/key-events/?pid:23&pif:3> (last visited Nov. 7, 2009).

**106** See, e.g., *Climate Change and Human Rights*, *supra* note 5, at ¶¶ 23, 26, 32; *Silent Crisis*, *supra* note 8, at 58; *Suffering the Science*, *supra* note 8, at 130; STERN, *supra* note 8.

**107** Coordination might be organized by the IASC, for example, and include cooperation among full members such as OCHA, UNDP, UNHCR, FAO, and many others. See IASC website, *supra* note 73.

**108** See Abbott, *supra* note 3, and accompanying text.

**109** UNECE, Aarhus Centres Contacts, available at <http://www.unece.org/env/pp/accontacts.htm> (last visited Nov. 7, 2009).

**110** *The OSCE and the Aarhus Convention*, FACTSHEET (Organization for Security and Co-operation in Europe) at 2. Additionally, the Organization for Security and Co-operation in Europe, in collaboration with the Environment and Security Initiative, has supported the implementation of the Convention, particularly with respect to the creation of the Aarhus Centres. UNECE, Aarhus Centres, available at <http://www.unece.org/env/pp/acintro.htm> (last visited Nov. 7, 2009).

**111** See *infra* Problem Statement, Protecting Human Rights and Addressing Climate Change are Compatible Interests.

**112** We acknowledge that regional groups serve many different functions. Regional cooperation through the UN would include cooperation with economic, security, health, and rights-oriented bodies. The following list of regional organizations is illustrative and draws upon economic and social cooperation for purposes of

example: Economic Commission for Africa, Economic and Social Commission for Asia and the Pacific, Economic Commission for Europe, Economic Commission for Latin American and the Caribbean, and the Economic and Social Commission for Western Asia. Additionally, see Fourth World Conference on Women, *Beijing Declaration and Platform for Action, Institutional Arrangements*, Sept. 15, 1995, A/CONF.177/20 (1995) available at <http://www1.umn.edu/humanrts/instree/e5dplw.htm#five> (last visited Nov. 6, 2009) for an example of tasking regional commissions with a cross-cutting issue.

**113** *Human Rights-Based Approach to Development and Cooperation*, *supra* note 2, at 16.

## Authors & Acknowledgments

**AUTHORS** Zoe Loftus-Farren  
Cáitrín McKiernan

The authors are J.D. candidates at the University of California, Berkeley, School of Law (2011). They conducted this work as interns in the school's International Human Rights Law Clinic.

**EDITORS** Laurel E. Fletcher  
Director, International Human Rights Law Clinic  
Clinical Professor of Law  
University of California, Berkeley, School of Law

Michelle Leighton  
Director, Human Rights Programs  
Center for Law & Global Justice  
University of San Francisco, School of Law

Alice M. Miller  
Senior Fellow, Miller Institute for Global Challenges and the Law  
Lecturer in Residence  
University of California, Berkeley, School of Law

Cymie R. Payne  
Lecturer in Residence  
University of California, Berkeley, School of Law

**DESIGN** Jonas Lerman Studio, San Francisco, CA

**COVER PHOTO** Zoriah, Untitled (2009).

**ACKNOWLEDGMENTS** The idea for this paper grew out of the May 2009 Climate Change & Migration Workshop, hosted by the Miller Institute for Global Challenges and the Law, University of California, Berkeley, School of Law; the Center for Law, Energy & the Environment, University of California, Berkeley, School of Law; and the Center for Law & Global Justice, University of San Francisco School of Law. We would like to thank Madhuri Messenger, Executive Director of the Miller Institute for Global Challenges and the Law; Kate Jastram, Senior Fellow, Miller Institute, Lecturer in Residence, University of California, Berkeley, School of Law; and Angela Harris, Professor of Law, University of California, Berkeley, School of Law for their contribution as planning committee members for the May 2009 Workshop. The authors and editors thank the Workshop participants for their insights and comments. We also thank the Berkeley Law library staff for their invaluable research support. The authors and editors deeply appreciate the support of Dean Christopher Edley, Jr., University of California, Berkeley, School of Law and Dean Jeffrey Brand, University of San Francisco, School of Law.

We are grateful to the individual donors to the International Human Rights Law Clinic without whom this work would not be possible. We also thank the Miller Institute for Global Challenges and the Law as well as the Climate and Energy Policy Institute at the Center for Law, Energy & the Environment, Berkeley Law for their generous financial support for this project. Travel support for this project was made possible by the Furthur Foundation and the Gilbert Foundation.





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## International Human Rights Law Clinic

### **International Human Rights Law Clinic**

University of California, Berkeley, School of Law  
396 Simon Hall  
Berkeley, CA 94720-7200  
PHONE: (510) 643-4800  
[humanrightsclinic.org](http://humanrightsclinic.org)

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## Miller Institute for Global Challenges and the Law

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University of California, Berkeley, School of Law  
Berkeley, CA 94720-7200  
PHONE: (510) 642-7830  
[law.berkeley.edu/mgcl.htm](http://law.berkeley.edu/mgcl.htm)



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University of San Francisco School of Law  
2130 Fulton Street  
San Francisco, CA 94117  
PHONE: (415) 422-63040  
[law.usfca.edu/centers/clgj](http://law.usfca.edu/centers/clgj)

