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CLIMATE  
CHANGE

A HUMAN RIGHTS  
CONCERN

## **CLIMATE CHANGE A HUMAN RIGHTS CONCERN**

Authors: Jan Van de Venis and Birgitte Feiring

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This paper was commissioned by the Danish Institute for Human Rights and drafted by Jan van de Venis, Human Rights Lawyer at JustLaw, Corporate Law and Human Rights (<http://www.JustLaw.nl>) and Birgitte Feiring, Chief Adviser on Human Rights and Sustainable Development of the Danish Institute for Human Rights

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Denmark's National Human Rights Institution  
Wilders Plads 8K  
DK-1403 Copenhagen K  
Phone +45 3269 8888  
[www.humanrights.dk](http://www.humanrights.dk)

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## **ABBREVIATIONS**

CHR	Commission on Human Rights of the Philippines
CNDH	National Human Rights Council of Morocco
COP	Conference of the Parties
DEP	Departments of Ecology
FUR	Follow-Up and Review
GANHRI	Global Alliance of National Human Rights Institutions
GFC	Green Climate Fund
IFC	International Finance Corporation
NGOs	Non-governmental Organisations
NHRIs	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
REDD+	Reduced Emissions from Deforestation and forest Degradation
SDGs	Sustainable Development Goals
SIS	Safeguard Information Systems
UNFCCC	UN Framework Convention on Climate Change
WHO	World Health Organization

# INTRODUCTION

*“Climate change is a threat to us all and to future generations, and to the enjoyment of human rights now and in the years ahead. A continually warming world will be a graveyard for entire ecosystems, entire peoples – and potentially even entire nations.*

*That each of the last three year has been the hottest on record shows why it is imperative to focus on implementing the Paris deal and to ensure the commitments States made to respect and promote human rights in climate action are acted upon and deepened”<sup>1</sup>.*

Zeid Ra’ad Al Hussein, UN High Commissioner for Human Rights

This Paper is inspired by recent international agreements, work of UN bodies, emerging case law by courts worldwide, NGO initiatives and increasing attention by National Human Rights Institutions (NHRIs) as well as the Global Alliance of National Human Rights Institutions (GANHRI) on the intertwined issues of human rights and climate change.

The Paper is intended to serve a double purpose as information for:

- The Special Event on the role of NHRIs in monitoring States’ implementation of Sustainable Development Goals and the Paris Agreement on Climate Change, organized by the National Human Rights Council of Morocco (CNDH), and;
- The 22<sup>nd</sup> Conference of the Parties<sup>2</sup> (COP 22) under the UN Framework Convention on Climate Change (UNFCCC) in Marrakech.

Beyond that, we hope the Paper can serve as an open invitation for more consideration and in-depth research into how NHRIs can become more effective in protecting and promoting human rights in relation to climate change.

# CHAPTER 1

## 1 THE HUMAN RIGHTS ASPECT OF CLIMATE CHANGE

Climate change is one of the most urgent challenges of our time. It calls on the global community to successfully implement mitigation and adaptation strategies to benefit present and future generations.

The links between climate change and human rights are attracting growing attention. The **Human Rights Council** has recognized climate change as a global problem that poses an immediate and far-reaching threat to people and communities, and that has implications for the full enjoyment of human rights.<sup>3</sup> The **Office of the High Commissioner for Human Rights** has pointed out that climate change entails essential obligations and responsibilities and requires global solutions that build on and reinforce human rights commitments<sup>4</sup>:

- Climate change directly and indirectly impacts a range of specific human rights, such as the right to life and the right to health;
- States must mitigate climate change and prevent its negative human rights impacts;
- Climate change is an issue of equity as it impacts specific groups more than others. Although it has an impact on people everywhere, those who have contributed the least to greenhouse gas emissions, i.e. the poor, children and future generations, are most affected, and;
- States have an obligation to protect human rights in relation to climate change. This implies an obligation to protect people from climate change harm and related human rights violations by businesses, while businesses have a responsibility to respect human rights and to do no harm<sup>5</sup>.

The **Committee of the Rights of the Child** organized its Day of General Discussion on child rights and the environment on 23 September 2016, addressing, inter alia, issues of climate change<sup>6</sup>. The **World Health Organization** highlights the health effects of climate change.<sup>7</sup> The Human Right Council has also affirmed the severe health effects of climate change and the applicability of the right to health<sup>8</sup>.

## CHAPTER 2

# 2 INTERNATIONAL AGREEMENTS AND FRAMEWORKS

In general, there has been only slow progress in ensuring a human rights focus under the **UN Framework Convention on Climate Change** (UNFCCC). However, the Convention itself, in articles 4 and 6, highlights the importance of public participation, public access to information as well as the need for education, training, capacity-building and public awareness – elements that all have roots in human rights.

The subsequent **Cancún Agreement** that emerged from COP 16, held in Mexico in 2010, was the first agreement under the UNFCCC to expressly acknowledge the impact of climate change impacts on human rights, including its disproportionate effect on “those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability”<sup>9</sup> as well as the Parties’ obligations in the context of mitigation and adaptation measures.

**Indigenous peoples** all over the world experience adverse impacts of climate change, which disrupt their productive cycles; affect food and water security; lead to deteriorating health situations, and; undermine cultural practices, traditional knowledge, institutions and social cohesion<sup>10</sup>. Further, externally defined climate change mitigation and adaptation measures may negatively impact indigenous peoples, if these do not take into account indigenous peoples’ human rights. Given the severe effects of climate change on communities that are dependent upon sustainable use of natural resources, the International Indigenous Peoples Forum on Climate Change<sup>11</sup>, has been at the forefront of demanding respect, recognition and protection of human rights within and beyond the climate change negotiations.

Recently, negotiations for a new agreement to succeed the Kyoto Protocol resulted in the 2015 **Paris Agreement**<sup>12</sup> that commits State Parties to pursue efforts to limit the temperature increase by reducing greenhouse gas emissions, and to strengthen the ability of countries to deal with the impacts of climate change. The agreement acknowledges the need for financial flows, technology and capacity building frameworks to support action by developing and most vulnerable countries. Further, the Agreement establishes an enhanced transparency framework to measure, review and verify States' commitments.

The Paris Agreement, in its preamble, specifically acknowledges climate change as a common concern of humankind, stipulating that "Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights...and intergenerational equity."

The concepts of **equity** and **common but differentiated responsibilities** are reflected in Article 3.1 of the UNFCCC, confirming that differential treatment between "developing" and "developed" countries is warranted, based upon differing vulnerabilities, national capacities and historical responsibilities<sup>13</sup>. The discussions about how these concepts should be translated into concrete obligations of those countries with higher responsibilities and capacities are ongoing. In 2010, the COP initiated, discussions of **loss and damage** associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change.

In 2013, the COP established the **Warsaw International Mechanism for Loss and Damage**<sup>14</sup>, which aims to:

- Enhance knowledge and understanding of comprehensive risk management approaches
- Strengthen dialogue, coordination, coherence and synergies among relevant stakeholders
- Enhance action and support, including finance, technology and capacity-building

Currently, discussions are ongoing on the establishment of a **Clearinghouse for Risk Transfer**<sup>15</sup>. Loss and damage is an area where human rights principles and standards should clearly frame the discussion in order to ensure equity, and where human rights institutions and mechanisms can clearly contribute. National Human Rights Institutions, for example, can help build States' capacity to manage permanent damage in a human rights-compliant manner, and engage business to assume responsibilities as stipulated by the UN Guiding Principles on Business and Human Rights.

John Knox, **UN Special Rapporteur on human rights and the environment**, in his early 2016 report, concludes that human rights norms clarify how States should respond to climate change<sup>16</sup>. “As the Paris Agreement recognizes, whenever States take action to address climate change, they should respect, protect and consider their respective obligations on human rights. Complying with human rights obligations not only helps to protect the rights of everyone affected by climate change. As the Human Rights Council has affirmed, it also promotes policy coherence, legitimacy and sustainable outcomes.”



The **Geneva Pledge on Human Rights and Climate Action**<sup>17</sup> was initiated in 2015 by a number of countries who commit to facilitate the sharing of best practice and knowledge between human rights and climate experts at a national level. Recognising the injustice faced by the poorest and most vulnerable people who are disproportionately affected by the impacts of climate change, a diverse group of countries from Latin America, Europe, Africa, Asia and Small Island Developing States pledge to enable meaningful collaboration between national representatives in the UNFCCC and the processes of the Human Rights Council. The aim is to help countries design climate action that is good for people as well as the planet.



The UNFCCC acknowledges from the outset that climate change must be understood in the wider context of social and economic challenges. With the adoption of the **2030 Agenda for Sustainable Development** in September 2015<sup>18</sup>, the world has an unprecedented and coherent framework for addressing the social, economic and environmental dimensions of sustainable development. The Agenda commits States to urgent action on climate change in order to support the needs of present and future generations<sup>19</sup>.

The 2030 Agenda embeds the concern for climate change in a broader vision of universal respect for human rights and human dignity<sup>20</sup>, as it is explicitly grounded in international human rights treaties<sup>21</sup>, and comes with a promise to protect human rights<sup>22</sup>. The Agenda also strongly affirms that the 17 **Sustainable Development Goals** (SDGs) seek to realize the human rights of all<sup>23</sup>, and pledge to leave no one behind<sup>24</sup>, thereby reflecting the human rights principles of equality and non-discrimination.

The **Human Rights Council** has adopted several resolutions on climate change<sup>25</sup> and through these welcomed the Paris Agreement, including its acknowledgements on human rights and intergenerational equity. The Human Rights Council recognizes the urgent need for early ratification and full implementation of the Paris Agreement, linking it (and welcoming) the adoption of the 2030 Agenda for Sustainable Development, including, inter alia, its Goal 13, which calls for urgent action to combat climate change and its impact.

The **UN High Commissioner for Human Rights** further underlines the linkages between climate change and sustainable development, stating that: “The climate crisis represents a fundamental threat to the achievement of the 2030 Sustainable Development Agenda. It requires coordinated, international action by States. Business must behave responsibly and respect human rights, including by taking measures to cut their greenhouse emissions. And we all, as individuals, must do our part by making responsible consumer choices and by increasing the pressure on our Governments to tackle climate change”<sup>26</sup>.

Human rights also guide the principles for **Follow-Up and Review** (FUR) of the 2030 Agenda, specifying that FUR processes “will be people-centered, gender-sensitive, respect human rights and have a particular focus on the poorest, most vulnerable and those furthest behind.”<sup>27</sup> However, the agreed mechanisms, including reporting, are voluntary and country-led and do not contemplate mechanisms for independent review or provisions of direct recommendations to States. From this perspective, highlighting how the SDGs are underpinned by international legally-binding human rights instruments with institutionalised monitoring bodies adds a dimension of accountability that is otherwise absent.

The Danish Institute for Human Rights has analysed how human rights standards, principles, monitoring mechanisms and institutions can contribute to Follow-up and Review at national, regional and global levels<sup>28</sup>, including in the areas related to climate change. The high degree of convergence between human rights and the SDGs implies that national, regional and international human rights mechanisms can directly assess and guide SDG implementation. Moreover, drawing on existing human rights and labour standards mechanisms will ease the reporting burden of States. Such mechanisms can offer:

- Systematised qualitative analysis and data through institutionalised reporting and monitoring mechanisms
- Identification of specific and systemic implementation challenges, as well as recommendations and guidance to overcome these

- Methodologies for innovative and participatory data collection, including exposure of inequalities through disaggregation of data and qualitative analysis
- Expertise on developing national monitoring systems that are aligned with global standards, and best practice on peer review mechanisms, expert and thematic reviews
- Best practice on systematic engagement of stakeholders in monitoring, reporting and follow up, guided by HRBA principles of accountability, transparency and access to information.

OHCHR advocates for “a **Rights-Based Approach to Climate Change**”<sup>29</sup>, to guide global policies and measures designed to address climate change. The essential attributes to such an approach are:

- As policies and programs are formulated, the main objective should be to fulfill human rights.
- The rights-holders and their entitlements must be identified as well as the corresponding duty-bearers and their obligations in order to find ways to strengthen the capacities of rights-holders to make their claims, and of duty-bearers to meet their obligations.

Principles and standards derived from international human rights law – especially the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all policies and programming in all phases of the process.

**Non-governmental Organisations (NGOs)** have become more active in the intertwined areas of human rights and climate change. NGOs that in the past focused on either human rights or climate change, like Amnesty and Greenpeace, now join hands in campaign on the topic. An example of that is their strong joint statement for COP21 in December 2015<sup>30</sup>: “Protection of human rights from climate change requires urgent shift to 100% renewable energy for all”. Another interesting example is the Quaker United Nation Office report “Climate justice and the use of human rights law in reducing greenhouse gas emissions”.<sup>31</sup>

# CHAPTER 3

## 3 SUSTAINABLE DEVELOPMENT GOAL 13: URGENT ACTION TO COMBAT CLIMATE CHANGE

The SDG 13 under the 2030 Agenda specifically commits to: **Take urgent action to combat climate change and its impacts.** The specific **targets** under SDG 13 are:

- Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters (13.1)
- Integrate climate change measures into national policies, strategies and planning (13.2)
- Improve education, awareness- raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning (13.3)
- Ensure financial resources to address the needs of developing countries (13.a)
- Promote capacity-building mechanisms for least developed countries, including focusing on women, youth and local and marginalized communities (13.b)

The Danish Institute for Human Rights has developed the **Human Rights Guide to the SDGs**, which uncovers the human rights anchorage of all 17 goals and 169 targets. The Guide shows that 92% of the targets are underpinned by international human rights and labour standards, and enables actors to use human rights as a driver for realizing the SDGs – and to use the SDGs to realize human rights.<sup>32</sup>

The human rights implied under SDG 13 are:

- The right to life
- The right to the highest attainable standard of health
- The right to participation in decision-making
- The right to seek, receive and impart information
- The right to adequate education

- The right to adequate living conditions, including food, housing, sanitation, electricity and water, transport and communications
- The right to enjoy the benefits of scientific progress and its applications

Human rights apply in a non-discriminatory manner to all human beings, but certain human rights instruments highlight the particular concerns for women, children, migrant workers, indigenous peoples and persons with disabilities. These groups also have particular vulnerabilities in the context of climate change. Moreover, human rights instruments recognize the essential importance of international co-operation to realize these rights.

# CHAPTER 4

## 4 SAFEGUARDS AND HUMAN RIGHTS

A number of climate-related mitigation and adaptation mechanisms come with safeguards that basically aim to uphold key human rights principles such as participation, and to minimize the risk of adverse impacts, for example on communities. A few examples of such safeguards are highlighted below:

### **Safeguards under REDD+**

Acknowledging that forest loss contribute significantly to global greenhouse gas emissions, the **Reduced Emissions from Deforestation and forest Degradation (REDD+)** initiative aims at fostering conservation, sustainable management of forests, and enhancement of forest carbon stocks. The Cancun Agreement,<sup>33</sup> defines the **safeguards** that should be promoted and supported in REDD+:

- Transparent and effective national forest governance structures, addressing issues of e.g. stakeholder participation, land tenure, ownership and user rights<sup>34</sup>
- Respect for the knowledge and rights of indigenous peoples and members of local communities
- The full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities

Countries are supposed to establish **Safeguard Information Systems (SIS)** and submit a summary of information on SIS, but the UNFCCC has not established review, compliance or grievance mechanisms linked to SIS.

### **Safeguards under the Green Climate Fund**

Under the 2030 Agenda, **target 13.a** promises to implement the commitment by developed countries to mobilize **\$100 billion** annually to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation under the UNFCCC. The main funding mechanism will be the **Green Climate Fund (GCF)**<sup>35</sup>.

The **GCF** has temporarily adopted the performance standards of the **International Finance Corporation (IFC)**, but may eventually establish its own safeguards. The IFC standards address, inter alia, social and environmental risks; labor and working conditions; pollution prevention; community health, safety and security; land acquisition and involuntary resettlement; indigenous peoples, and; cultural heritage.

The above mentioned safeguards and performance standards reflect long-pending commitments towards **good governance and human rights**. Moreover, they are formulated in a broad and open manner that requires interpretation as well as establishment of benchmarks and minimal standards against which performance can be assessed, before they can actually serve as safeguards.

Hence, both in substance and implementation challenges, safeguards bears resemblance with international human rights standards. Consequently, safeguard application cannot be separated from human rights application, and would benefit from the expertise, contribution and oversight by institutionalised human rights monitoring mechanisms such as, for example, National Human Rights Institutions, treaty monitoring bodies and the ILO supervisory bodies.

## CHAPTER 5

# 5 CLIMATE CHANGE LITIGATION

The growing attention to Human Rights and Climate Change is also seen in courts worldwide. A few examples:

### **The Netherlands**

In 2015, the Dutch NGO 'Urgenda' and 900 Dutch citizens won a lawsuit against the Dutch State. This case has primarily been ruled as a tort case under Dutch law, with human rights law and case law of the European Court of Human Rights creating (the basis of) a duty of care of the Dutch State. The Court ruled that the Netherlands has a duty of care and has to step up efforts on greenhouse gas reductions, in line with international treaty obligations to this effect.<sup>36</sup> The Dutch court defined a principle of fairness towards future generations in relation to climate change and thus integrated intergenerational equity in the verdict, which was later confirmed in the Paris Agreement.

Based on the positive outcome in this 'climate case', other climate cases have started in Sweden and Belgium – also based on human rights and intergenerational equity.

### **United States of America**

Our Children's Trust has supported climate cases in six different States in the USA, invoking the human rights of young American citizens. These cases involve young people who sue the Departments of Ecology (DEP) in their state<sup>37</sup>. The cases are based on human (and constitutional) rights, for instance proclaiming to 'securing the legal right to a stable climate and a healthy atmosphere for all present and future generations'. Several cases have been won as judges have ruled that existing schemes fall short and ordering annual reductions in greenhouse gases.

[REDACTED]

A King County Superior Court Judge Hill noted the extraordinary circumstances of the climate crisis, saying, "The reason I'm doing this is because this is an urgent situation... These children can't wait, the polar bears can't wait, the people of Bangladesh can't wait. I don't have jurisdiction over their needs in this matter, but I do have jurisdiction in this court, and for that reason I'm taking this action."<sup>38</sup>

[REDACTED]

In 2015, 21 youth from across the United States, age 8 to 19, filed a landmark constitutional climate change lawsuit against the federal government. This case was also started on behalf of (the human rights of) Future Generations. Well known environmental activists, like Bill McKibben and Naomi Klein, have proclaimed: "[This is] the most important lawsuit on the planet right now."

### **Pakistan**

The Lahore High Court concluded that Pakistani human rights (including the right to life, which includes the right to a healthy and clean environment, and the right to human dignity) and constitutional law and inter and intra-generational equity and public trust doctrine supported a ruling against the government in a case started by farmer Leghari. Mr. Leghari challenged the inaction, delay and lack of seriousness on the part of the federal government and the government of Punjab to address climate change. The court reasoned climate change to be a defining challenge of our time that has led to dramatic alterations in our planet's climate system, including the heavy floods and droughts that have affected Pakistani water and food security.<sup>39</sup>

## CHAPTER 6

# 6 THE CLIMATE CHANGE PETITION IN THE PHILIPPINES

On 22 September 2015, 20 typhoon survivors and 13 civil society groups delivered a petition to the Commission on Human Rights of the Philippines (CHR) requesting for investigation of the responsibility of some 50 companies, referred to as the Carbon Majors. The allegation is that these companies knowingly contributed to the root causes of climate change and thus violated the human rights of Filipinos<sup>40</sup>.

The group requests “the Carbon Majors should be held accountable for violations or threats of violations of Filipinos’ rights”. The petition lists several human rights that, according to the petitioners, have been violated resulting from the adverse impacts of climate change: “(a) to life; (b) to the highest attainable standard of physical and mental health; (c) to food; (d) to water; (e) to sanitation; (f) to adequate housing; and (g) to self-determination...”.

The petition requests special attention to be paid to marginalized and disadvantaged people and communities particularly vulnerable to the effects of climate change, including women, children, persons with disabilities, those living in extreme poverty, indigenous peoples, and displaced persons; The workers’ organizations among the petitioners also seek accountability for the human rights implications of climate change on workers’ health, labour productivity, work environment and safety, and job protection. “

The petition asserts that the Filipino constitution authorizes the Commission to investigate alleged human rights violations and to recommend to the executive and legislative branches appropriate responses to identified harms.

This complaint contrasts with the other cases mentioned as it is directly framed as a human rights case pled to a NHRI, rather than an environmental case argued to a court of general jurisdiction<sup>41</sup>. The petitioners also try to make the Human Rights Commission speak out in favor of legislative action on climate change.

[REDACTED]

The petition is still under investigation. But the press worldwide follows every step of the procedure intensively. This has resulted in strong headers like (The Guardian): *“World's largest carbon producers face landmark human rights case”*<sup>42</sup>

[REDACTED]

The cases highlighted in this paper, show a common strategy: the use of international climate change agreements and norms, combined with human rights law and principles of intergenerational equity to hold individual countries accountable through their domestic courts.

Academic analysis<sup>43</sup> suggests that climate change litigation focused on connecting international pledges with national law is likely to grow as:

- Both the SDGs and the Paris Agreement contain human rights wording and entail a Human Rights-Based Approach (as confirmed by both OHCHR and the Human Rights Council), and;
- The Paris agreement comes into force.

Recent activity by NGOs and academics confirms that they are investing time and energy into filing more lawsuits based on human rights, intergenerational equity and the Paris Agreement. These cases include a German case ( a Peruvian farmer against German energy firm RWE), preparations for an Australian Case (Environmental Justice Australia is canvassing support for a lawsuit)<sup>44</sup>, a Swedish youth case<sup>45</sup> and Swiss senior women case<sup>46</sup>.

With this in mind, it is likely that more complaints or petitions, similar or in line with the complaint in the Philippines, will be filled with NHRIs.

## CHAPTER 7

# 7 THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS

**National Human Rights Institutions (NHRIs)** constitute key elements of strong and effective national human rights protection systems. NHRIs are established as independent State bodies with a constitutional and/or legislative mandate to protect and promote human rights. The **NHRI mandate** typically includes research and advice; education and promotion; monitoring and reporting; investigation; conciliation and remedies; cooperation with national and international organisations; and interaction with the judiciary.

A key role of NHRIs is to **monitor and measure** the national human rights situation against international human rights standards. NHRIs often prepare annual status reports on the general human rights situation as well as analysis and research on specific human rights topics. Many NHRIs have a **strong focus on discrimination and inequalities**, and monitor the situation of vulnerable and marginalised groups and particular rights-holders.

### NHRIs as a global indicator of sustainable development

In March 2016, the UN Statistical Commission adopted the “**existence of independent National Human Rights Institutions in compliance with the Paris Principles**” as one of the **global indicators** for SDG 16. Goal 16 aims to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Measuring the existence and strength of NHRIs is a multipurpose indicator that provides an effective metric for assessing the strength of national institutions as well as the accountability architecture in place in a given country. Moreover, the existence of strong NHRIs has a catalytic impact on the implementation and monitoring of the entire 2030 Agenda for Sustainable Development,

as NHRIs address discrimination in all its forms, and promote the protection of civil, political, economic, social and cultural rights. Therefore, NHRIs are crucial elements of the good governance and institutional accountability architecture that is necessary for ensuring peaceful and inclusive societies and access to justice for all.



The **Global Alliance of National Human Rights Institutions (GANHRI)**, in October 2015, adopted the **Mérida Declaration** on the Role of National Human Rights Institutions in implementing the 2030 Agenda for Sustainable Development<sup>47</sup>. The Declaration acknowledges the links between human rights and sustainable development, and identifies the potential roles of NHRIs in the follow-up and review of the Agenda, including SDG 13, at national, regional and international levels. These are:

- Provide advice to national and local governments, rights-holders and others, to promote a Human Rights-Based Approach to implementation and measurement of the 2030 Agenda, including by assessing the impact of laws, policies, programmes, national development plans, administrative practices and budgets;
- Promote transparent and inclusive processes for participation and consultation in the development of national and sub-national strategies to achieve the SDGs, including by reaching out to those who are furthest behind;
- Assist in the shaping of national indicators and sound data collection systems, including by building on existing international and regional human rights reporting and monitoring mechanisms;
- Monitor progress at the local, national, regional and international levels and disclose patterns of inequality and discrimination, including through innovative and participatory approaches to data-collection;
- Engage with, and hold governments to account for poor or uneven progress in the implementation, including by reporting on uneven implementation progress and obstacles to parliaments, the general public and national, regional and international mechanisms, and;
- Respond to, conduct inquiries into, and investigate allegations of rights violations in the context of SDG implementation.

In December 2015, the **UN General Assembly** adopted a resolution, which specifically encourages NHRIs to participate in and contribute to discussions on

the implementation of the 2030 Agenda.<sup>48</sup>

Moreover, in November 2015, the **Commonwealth Forum of National Human Rights Institutions** adopted the **St. Julian's Declaration on Climate Justice**<sup>49</sup>. The group of Commonwealth NHRIs commit inter alia to:

- Take steps to increase their understanding of how human rights obligations inform better climate action by pursuing meaningful collaboration between national representatives in the UNFCCC and the Sustainable Development Goals.
- Encourage national and international climate change frameworks to integrate human rights into their policies and actions,
- Develop rights-based guidance, which provides both a legal and moral basis to climate change action, rooted in dignity and equality, through the realisation of human rights, and;
- Develop a work programme on climate justice in order to monitor and evaluate efforts already made and still to be made to protect human rights within the context of climate action.

All of the above-mentioned NHRI roles and functions are highly relevant for the implementation of SDG 13 concerning climate change. Hence, NHRIs can contribute to a human rights-based monitoring of national climate change related frameworks, can advise governments on how to protect human rights in relation to climate change – also in relation to business - and can provide remedies to human rights violations.

#### **Engagement of NHRIs in COP 22**

The **National Human Rights Council of Morocco** (CNDH) is a pluralistic and independent institution responsible for the protection and promotion of human rights in Morocco. In the context of COP22 in Morocco, the CNDH has invited NHRIs from all over the world to a **Special Event**, to further discuss and reflect on their role in the implementation of the 2030 Agenda on Sustainable Development and, in particular, the SDG focused on climate change.

It is expected that the discussions at the Special Event in Morocco will lead to the adoption of a **Declaration on the Role of NHRIs in monitoring the implementation of the SDGs and commitments under the Paris Agreement on Climate Change**.

# END NOTES

- <sup>1</sup> Press release by the UN High Commissioner for Human Rights, 1 November 2016, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20822&LangID=E>
- <sup>2</sup> The twenty-second session of the Conference of the Parties (COP 22) will be held in Bab Ighli, Marrakech, Morocco from 7-18 November 2016. For more information, see: [http://unfccc.int/meetings/marrakech\\_nov\\_2016/meeting/9567.php](http://unfccc.int/meetings/marrakech_nov_2016/meeting/9567.php)
- <sup>3</sup> Human Rights Council Resolution A/HRC/7/23 (28 March 2008).
- <sup>4</sup> Key Messages on Human Rights and Climate Change, Office of the High Commissioner on Human Rights, see: [http://www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages\\_on\\_HR\\_CC.pdf](http://www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf)
- <sup>5</sup> Ibid
- <sup>6</sup> See: <http://www.ohchr.org/EN/HRBodies/CRC/Pages/Discussion2016.aspx>
- <sup>7</sup> WHO Factsheet on Health and Climate Change, via: <http://www.who.int/mediacentre/factsheets/fs266/en/>
- <sup>8</sup> Human Rights Council Resolution A/HRC/29/15 (22 July 2015), available at: [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/RES/29/15](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/29/15); See also Hesselman and Toebes: 'The human right to health and climate change: A legal perspective', 31 October 2015, available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2688544](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2688544)
- <sup>9</sup> Decision 1/CP.16, preambular section
- <sup>10</sup> See: Danish Institute for Human Rights: Indigenous Peoples and Climate Changes – a Human Rights Challenge (DIHR, 2013)
- <sup>11</sup> <http://www.iipfcc.org/>
- <sup>12</sup> [http://unfccc.int/paris\\_agreement/items/9485.php](http://unfccc.int/paris_agreement/items/9485.php)
- <sup>13</sup> Human Rights and Climate Change, a Review of the International Legal Dimensions, World Bank, 2011, p.52
- <sup>14</sup> See: [http://unfccc.int/adaptation/workstreams/loss\\_and\\_damage/items/8134.php](http://unfccc.int/adaptation/workstreams/loss_and_damage/items/8134.php)
- <sup>15</sup> [https://unfccc.int/files/adaptation/groups\\_committees/loss\\_and\\_damage\\_executive\\_committee/application/pdf/roadmap\\_clearinghouserisktransfer\\_draft\\_21\\_apr.pdf](https://unfccc.int/files/adaptation/groups_committees/loss_and_damage_executive_committee/application/pdf/roadmap_clearinghouserisktransfer_draft_21_apr.pdf)
- <sup>16</sup> Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/31/52 on Climate Change and Human Rights.
- <sup>17</sup> See: <http://www.mrfcj.org/resources/geneva-pledge-human-rights/>
- <sup>18</sup> Resolution adopted on 25 September 2015, UN GA A/RES/70/1 See: <https://sustainabledevelopment.un.org/post2015/summit>
- <sup>19</sup> Ibid. Declaration, under 18. "We will implement the Agenda for the full benefit of all, for today's generation and for future generations. In doing so, we reaffirm our commitment to international law and emphasize that the Agenda is to be implemented in a manner that is consistent with the rights and obligations of States under international law."
- <sup>20</sup> Ibid. Declaration, under 8.
- <sup>21</sup> Ibid. Declaration, under 10. and 19.
- <sup>22</sup> Ibid. Declaration, under 3.
- <sup>23</sup> Ibid. Preamble par. 3.
- <sup>24</sup> Ibid. Preamble par. 4
- <sup>25</sup> Including Human Rights Council Resolutions (A/HRC/) 7/23, 10/4, 18/22, 26/27 and 29/15.

- <sup>26</sup> Press release by the UN High Commissioner for Human Rights, 1 November 2016, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20822&LangID=E>
- <sup>27</sup> Ibid. Declaration, under 74 (e).
- <sup>28</sup> See: [http://www.humanrights.dk/sites/humanrights.dk/files/may\\_17\\_follow-up\\_and\\_review\\_sdg\\_docx.pdf](http://www.humanrights.dk/sites/humanrights.dk/files/may_17_follow-up_and_review_sdg_docx.pdf)
- <sup>29</sup> See: <http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx>
- <sup>30</sup> Download here: <https://www.amnesty.org/en/documents/pol30/3033/2015/en/>
- <sup>31</sup> Download here:  
[http://www.quno.org/sites/default/files/resources/Climate%20Justice\\_August\\_2016.pdf](http://www.quno.org/sites/default/files/resources/Climate%20Justice_August_2016.pdf)
- <sup>32</sup> See: <http://sdg.humanrights.dk>
- <sup>33</sup> Appendix I, para. 2
- <sup>34</sup> See: Framework for Assessing and monitoring Forest Governance, FAO, 2011
- <sup>35</sup> See: <http://www.greenclimate.fund/home>
- <sup>36</sup> Court of First Instance, Case No. ECLI:NL:RBDHA:2015:7196, (24 June 2015). Also see: <http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBDHA:2015:7196>
- <sup>37</sup> See: <http://www.ourchildrenstrust.org/pending-state-actions>
- <sup>38</sup> See: <https://climatechange4families.com/2016/04/>
- <sup>39</sup> Leghari v. Federation of Pakistan, Lahore High Court Sept. 4, 2015, See: <http://edigest.elaw.org/sites/default/files/pk.leghari.090415.pdf>
- <sup>40</sup> See:  
[http://www.greenpeace.org/seasia/ph/PageFiles/735232/Climate\\_Change\\_and\\_Human\\_Rights\\_Petition.pdf](http://www.greenpeace.org/seasia/ph/PageFiles/735232/Climate_Change_and_Human_Rights_Petition.pdf)
- <sup>41</sup> As also analysed by Prof. T. Bach of Vermont Law School in her paper ‘Human Rights in a Climate Changed World’: <http://lawreview.vermontlaw.edu/wp-content/uploads/2016/07/40VtLRev561-Bach.pdf>
- <sup>42</sup> See: <https://www.theguardian.com/environment/2016/jul/27/worlds-largest-carbon-producers-face-landmark-human-rights-case>
- <sup>43</sup> As also analysed by Prof. Bach, see xxxiv
- <sup>44</sup> See: <http://www.climatechangenews.com/2015/07/08/around-the-world-in-5-climate-change-lawsuits/>
- <sup>45</sup> See: <https://www.generosity.com/community-fundraising/youth-sue-swedish-state-on-climate-grounds--2>
- <sup>46</sup> See: [http://www.swissinfo.ch/directdemocracy/litigious-ladies\\_citizens-to-sue-government-over-climate-policy/42393504](http://www.swissinfo.ch/directdemocracy/litigious-ladies_citizens-to-sue-government-over-climate-policy/42393504)
- <sup>47</sup> See: <http://nhri.ohchr.org/EN/ICC/InternationalConference/12IC/Pages/default.aspx>
- <sup>48</sup> A/70/163
- <sup>49</sup> [http://cfnhri.org/uploads/general/St\\_Julian\\_Declaration\\_FINAL.pdf](http://cfnhri.org/uploads/general/St_Julian_Declaration_FINAL.pdf)

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