



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

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CONSEIL DE L'EUROPE

POSITION PAPER OF THE NGOs' CONFERENCE OF THE COUNCIL OF EUROPE¹ ON "CLIMATE CHANGE AND HUMAN RIGHTS"

*WORKING GROUP ON CLIMATE CHANGE AND HUMAN RIGHTS OF THE NGOs' COMMISSION
"DEMOCRACY, SOCIAL COHESION AND GLOBAL CHALLENGES"*

Climate Change: visible effects

New York no longer has a choice: it will either drown or must redesign itself². In response to the passage of Hurricane Irene and Sandy in 2011 and 2012, public authorities must prepare city-dwellers for the effects of upcoming climate disturbances, and especially the rise of sea levels. They have to face the need to slow down the intrusion of seawater and fend off flooding facilitated by the grid pattern of streets. After having purchased wetlands to secure drinking water, the city now seeks to adapt itself by natural means to the impacts of Climate Change. Intense efforts now link decision makers, urban planners, architects, naturalists, and associations in order to ameliorate the city's resilience while improving quality of life and rebuilding social cohesion.

If the case of New York is emblematic², it is not the only one and several cities and countries have already taken measures to prevent and adapt, such as the city of Quebec³. In Europe, Belgium and the Netherlands, very concerned by the expected rise of sea level, have already prepared operational prevention Plans⁴. The international research station on Climate Change, established on the most northern Norwegian archipelago⁵⁵ Svalbard, warns that climatic conditions in the Arctic play a crucial role on the climate of the whole world. They confirm that during the last years many changes have been noticed: glaciers melt more (4m within 3 years), as well as loss of permafrost, that opens the run for wealth in the far North, but this also raises the level of methane in the air, threatening agriculture, biodiversity and the safety of human communities exposed to extreme meteorological perturbations.

Beyond the developed countries, island countries or cities like Bangkok are already facing climate risk and must, with limited resources, prevent or adapt to these challenges.

¹ INGOs : International NGOs enjoying participatory status at the Council of Europe

² see the informative documentary film Naturopolis, ARTE France 2013, 89 minutes

³ <http://www.mddefp.gouv.qc.ca/changementsclimatiques/index-en.htm>

⁴ cf. Safety Plan for Integrated Coastal Belgium and Delta Programme for the Netherlands

⁵ see the website of the Polar Institute: <http://www.npolar.no/en/the-arctic/environment-and-climate/> and the report conducted by the Arctic Council project "Arctic Climate Impact Assessment" dated 2004.

... and dramatic consequences :

Climate Change is already well documented by scientific field observations⁶ and many regions have already suffered the effects of those perturbations, especially related to the increase of natural phenomena⁷ such as tornados, flooding or unusual droughts. Thus attacks on safety and health can already be observed, with less reliable access to water and sufficient food, as well as degradation of quality of life and landscape.

Finally, Climate Change can generate political and social unrest that is unmanageable.

People are forced to move from areas threatened by impoverishment, insalubrity, natural disasters or simply the result of a decrease in quality of life, towards more protected and therefore more attractive regions. Now, today, land is public or private property, it does not welcome additional economic, social and environmental pressure. The consequences could stir up conflict, foster xenophobia, destroy communities and foster of selfishness. All constitute risks that could harm human rights.

Media and politicians regularly address Climate Change and its impacts on humans and nature, but their reflections concerning its impacts on human rights are rare.

Beyond the visible effects, Climate Change also directly affects fundamental rights:

- Right to life
- Right to dignity and decent living conditions
- Right to safety, to health, food and water
- Right to protection of goods
- Right to nationality and freedom of circulation⁸

The most fragile communities (women, children, the elderly, the poor, disabled persons, indigenous peoples, displaced people) are the first ones to suffer from attacks on these rights. Among the most vulnerable, it is recalled that women represent 70% of the world's poor although they provide food security and education of children in developing countries, while being discriminated against. So the UN has initiated a process of reflection on the link between Climate Change and Human Rights while partnering with civil society.

NGOs lead the fight for the defense of human rights at all levels of governance and territory, particularly in institutions and European and international organizations. They question the definition of growth, development and sustainability. They worry responsibilities on climate change, both in terms of causes and consequences. They worry about the

⁶ see the publications of the Intergovernmental Panel on Climate Change
http://www.ipcc.ch/home_languages_main.shtml

⁷ it is necessary to distinguish between natural phenomena and natural disasters since these are usually natural phenomena whose consequences are aggravated by human action (soil sealing, grinding rivers, deforestation, etc.).

⁸ cf. The Universal Declaration of Human Rights :

Article 22 : Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 28 : Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

commodification of the commons. They are particularly sensitive to the loss of social cohesion, inequality, inequity.

Faced with these issues for the planet and for future generations, INGOs of the Council of Europe are the following proposals and give their priorities in the hope that they are shared by the public and carried by all actors in the social, political and economic life.

I - Human rights must be secured and protected

Human Rights are part of several international agreements and guaranteed by Member States to International Organisations. The first generation of Human Rights secured the right to life, civil and political freedoms and to essential needs. Then rights in economic, social and cultural matters were added. A third generation of Human Rights addressed the emergence on the internal scene of collective rights based on a global solidarity around common moral values. Among these, the right to Peace, Development and Environment.

A The right to life and essential needs

Article 2 of the European Convention of Human Rights protects the right to life⁹. According jurisprudence; the Court requires from States that they fulfill their positive obligation to avoid human losses also in the case of natural catastrophes even if those disasters are, by nature, beyond human control¹⁰.

Article 11 of the European Social Charter looks expressly at the right to the protection of health. This article as presented by the European Committee on social rights, is interpreted as to guarantee the right to a safe environment¹¹. The consequences of climate change will have serious impacts on health in all countries

Article 25 of the Universal Declaration stipulates clearly the protection of the rights considered to be essential:

“1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

B The right to quality of life, culture, social cohesion and equality.

⁹ This means that "public authorities have an obligation to take measures to ensure the treaty rights even when they are threatened by other people (private) or activities that are not directly related to the State."
"

¹⁰ Public authorities may be required to take measures to prevent violations of the right to life from hazardous activities or natural disasters. This implies first of all that the first duty of a State is to establish a legislative and administrative framework ... ". See Chapter 1) page 18 of the Handbook on Human Rights and the Environment (2012, 2nd edition), Council of Europe.

¹¹ See the Handbook on Human Rights and the Environment (2012, 2nd edition), pages 27-28 and 123-130

The economic, social and cultural rights of every human being include the rights to work, health, education, food, water, sanitation, housing and social security, as well as the right to take part in cultural life, amongst others. These rights are intrinsically linked with other human rights and are essential for a life of dignity, security and freedom ... All human rights are universal, indivisible and interdependent and interrelated,” and must be treated “on the same footing and with the same emphasis.”¹²

C The need to have a safe environment

The right to life, food, water, housing, etc. is guaranteed by international treaties. However Climate Change and its repercussions on the natural environment (prejudice to natural resources, loss of agricultural production, rising sea level, disastrous meteorological phenomena) jeopardize the components of these crucial aspects of quality of life. Their effects may entail – and already are- human losses, ecological migrations, insecurity and a degradation of decent living conditions.

States have the duty to decide on preventive measures and to set up procedures to raise the awareness and to inform the public in matter of natural disasters¹³. Fighting air pollution as well on a national level as on a global one, implies that States establish a developed legal framework in environmental matters and set up special arrangements (adaptation of equipment, fixing of emission levels, palliative rules, etc.).¹⁴ Even in the absence of the positive right to a safe environment, the European Court of Human Rights states that “ the effective enjoyment of rights included into the Convention depend in particular on a quality, quiet and sound environment able to ensure the well-being.” The Court’s Jurisprudence underlined the increasing awareness of the link between the protection of rights, freedom of persons and the environment.¹⁵

Protecting the environment is even more necessary since biodiversity and the well functioning of ecosystems are securing the future of natural resources, agriculture, water as well as climate regulation.

Accordingly, INGOs solemnly recommend UNO and the Council of Europe to:

1. Prompt their Member States to set up programs able to ensure security and environmental sustainability
2. Request their Member States to implement existing legal instruments of which they are a Party

¹² Handbook on Economic, Social and Cultural Rights (2004), High Commissioner for Human Rights of the UN, Training Series No. 12. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (1976) entered into force May 5, 2013, marks the achievement of equality between economic, social and cultural rights with other rights. See Navi Pillay, UN High Commissioner for Human Rights, Declaration, Geneva 06.02.2013.

¹³ cf. Article 2 of the European Convention on Human Rights. Comments on the jurisprudence of the European Court of Human Rights in Handbook on Human Rights and the Environment, pp. 34 et seq.

¹⁴ cf. Article 11 Right to protection of health, Revised European Social Charter (1996) and reviews of the jurisprudence of the European Court in Handbook on Human Rights and the Environment, p. 123 and seq.

¹⁵ See the Handbook on Human Rights and the Environment (2012, 2nd edition), p.30 and seq.

3. Advocate for the official recognition of a sound environment as a Human Right¹⁶

Beside the two other pillars¹⁷ of the Council of Europe's 'quadrilogue' that are the Parliamentary Assembly and the Congress of Local and Regional Authorities, the NGOs demand: an additional protocol to the European Convention of Human Rights to register the **right to a healthy environment** in the 3rd generation of human rights.

II – Act together for the wellbeing of the planet's inhabitants

Climate Change concerns the whole planet, consequently the awareness and the political will must commit all nations.

INGOs having participatory status at the Council of Europe, consider it indispensable to bring preventive responses to potential or expected effects of Climate Change in view of avoiding or mitigating breaches to human rights.

They call for **acting together** for the wellbeing of the planet and its inhabitants.

To this end, they make proposals that articulate according to five priorities:

A – Prioritize the mobilization of the citizens through a democratic and active citizenship

The international NGOs are convinced of the imperious necessity of changing the paradigm and new criteria of reference adapted to the impacts of Climate Change on Human Rights.

The Human Development Index¹⁸ as well as other indices like the Gross National Happiness, based on welfare¹⁹ should be favored in order to ensure human, social, economic and cultural sustainable development. This needs the empowerment of the institutional governance of sustainable development at global and regional level. Democracy, good governance and legal state are *sine qua non* conditions of sustainable development.

People's involvement in the decision making process of modification and management of the environment and of the life frame must become foundation of democracy and a human right. Nothing may be reached without citizen's commitment. It is to build a collective vision for the future.

¹⁶ Pursuant to the Resolution of the Council of Human Rights of the UN 18/11 on the establishment of a mandate of Special Rapporteur on the implications for human rights of managing a healthy environment and disposal of hazardous substances and waste.

¹⁷ In its Madrid Declaration in May 2009, the Committee of Ministers confirms the role of the Conference of INGOs in the "quadrilogue" holding that "to develop - with the help of the Conference of International Non-Governmental Organizations (INGOs) - the interaction with civil society, of which we welcome the action on the ground, also remain one of our priorities "(CM (2009) 50 final 12 May 2009).

¹⁸ HDI statistical index created by the United Nations Development Programme in 1990 to measure the level of human development instead of Gross Domestic Product per capita.

¹⁹ The Kingdom of Bhutan has established a welfare indicator: Gross National Happiness

Regarding this, the full implementation of the Aarhus Convention, of the Code of Good Practice for Civil Participation in the Decision-Making Process of the INGOs Conference is a necessity for fostering civil society to take part to the setting and choice of measures to adapt to Climate Change.

This implies:

1. **Transparent processes** focused on general interest
2. Priority given to **local strategies** that have the strongest impact on adaptation to Climate Change²⁰, including the capacity to influence the national and international levels.
3. **Political and financial support** to territorial initiatives, particularly essential towards recentralization noticed during periods of crisis.
4. **Institutionalized decision centers** including all public and private actors, particularly the local actors²¹.

If the territorial level seems to us the most obvious one for good governance of the responses to Climate Change, in certain cases nevertheless decisions must be taken at a higher level²² :

1. At the international level, the creation of a Climate Agency, capable to interact with other UN agencies; The Environment Agency called for many years cannot happen given the reluctance of certain countries
2. A **Special Rapporteur on "Human rights and Climate Change"**²³ could advantage the integration of the Human Rights dimension into the policies and projects linked to climate. He (she) could ensure the follow-up of the Climate Change impacts on Human Rights.
3. At the Council of Europe, a priority climate and human rights of the European Conference of Ministers responsible for Spatial/Regional Planning (CEMAT)

B - Priority for social and territorial cohesion matters

The NGOs wish that all stakeholders together establish territorial strategies. Global social, ecological and economic balance, as well as population survival, in particular the most vulnerable ones, are at stake and depend on such measures. It is a matter of equality, equity and human rights.

The NGOs strongly recommend the member states of the UN and of the Council of Europe:

²⁰ It is at local level that perceived vulnerabilities and impacts of climate change linked to the specific territory

²¹ See the "shared vision" of the Cancun Agreements

²² It may be necessary, for example, to abandon coastal areas rather than trying to protect at all costs a few houses or equipment while eliminating natural processes.

²³ As there is a Special Rapporteur on the implications for human rights of management of a healthy environment created by the Council of Human Rights of the UN.

1. To ensure that prevention and adaptation to climate change (target and) protect priority populations at risk in the short and medium term, regardless of the economic issues
2. To take into account the fear not to survive related to the one of being invaded by influx of climatic migrants²⁴ where they come from (national or not).
3. To act more efficiently to propose international legislation protecting the rights of native people, especially those rights dealing with the protection of environment²⁵.
4. Consequently, to integrate, in an efficient way, Climate Change in all the global or sector-based policies
5. To prescribe for all public works a climatic impact study
6. To steer urban planning and architecture towards less space consumption, energy savings and to seek thermal inertia²⁶;
7. To foster in national and transnational agricultural policies, cultural practices adapting to Climate Change;
8. To require financial contribution from businesses with regardless consumption of natural resources, those whose production degrades the environment or health and those that degrade the environment in order to re-establish the quality of water, air and soil;
9. To prompt responsible modes of production and consumption.

C – Priority in the field of economic governance

Economic priorities – partly responsible of Climate Change – jeopardize Human Rights guaranteeing essential needs.

The NGOs denounce financial deregulation and its consequences, the merchandizing of common assets, the trade mechanism related to the Kyoto protocol.

They worry about the economic colonization of the resources of developing countries (privatization of large areas of land and of natural resources by foreign interests).²⁷

They acknowledge:

²⁴ The UN estimates that about 150 million climate refugees who may be displaced by 2050 because of rising sea levels, melting glaciers, thawing Arctic soils, floods or cyclones increasingly violent. The irreversibility of these phenomena in most cases makes it unlikely the return of these populations in their territories. With their move, they will lose ancestral cultures inseparable from their natural environment. And these people are precisely those who have contributed least to climate change. See in appendix the report of the NGO "International Society for Threatened Peoples" about climate change and human rights of indigenous peoples of the Arctic region.

²⁵ For the Nagoya Protocol seems insufficient to protect their rights over genetic resources on their lands. Indigenous peoples have the knowledge of their natural resources and their uses including their healing abilities. Today however, these populations are oppressed by some pharmaceutical companies and cosmetic manufacturing that tend to violate their rights, especially their heritage and intellectual property rights. See in appendix the report of the NGO "International Society for Threatened Peoples" about climate change and human rights of indigenous peoples of the Arctic region.

²⁶ The choice of development sites for housing should take into account the climatic implications of global warming, exposure to wind, water flow changes. The resilience of cities is also measured through soil permeability and sufficient presence of vegetated areas

²⁷ See in appendix the report produced by the INGO « Soroptimist » on land grabbing in Africa.

1. That sustainable development can be effective only if it respects a balanced integration of the three fundamental pillars: environment, economy and social impact;
2. Expressly recommend using the expression of “the green social and inclusive economy” instead of “the green economy” reminding us the third pillar of the sustainable development, which is of crucial importance.

They favor:

1. The assessment of financial resources and the study of new financial sources needed for adaptation to Climate Change
2. The reinforcement of financial help to climate investments in developing countries. But they warn against false solutions that can degrade the living conditions of local populations (biofuels, hydro, eg.)

The NGOs strongly recommend to the Member States of the UN and of the Council of Europe:

1. That the natural resources, climate, the whole planet be considered as **common assets**, and managed as such, in the perspective of future developments;
2. That the commercial practices be reoriented in order to allow local agriculture in developing countries to effectively contribute to be **self-sufficient**;
3. That the **concept of green economy**, recommended by the UN, and for which the NGOs are in favor, be not considered as the sole and unique solution, underlining the risk of green-washing²⁸, among others, that it can entail.

D – Priority in the field of environmental protection:

Climate Change is a natural long-term phenomenon with short-term oscillations. It is under influence of both natural and anthropic forces. Recent studies show a determinant human influence in the current accelerated change. Since we interact with nature, we have to take into account the possible effects of our actions. We still do not have all the scientific certainties and we will have to satisfy ourselves with this context of uncertainty but enough elements exist to decide on preventive measures in order to ensure the durability of the human species and of the ecological balance.

We are convinced that the reduction of the sole Greenhouse Gases, although necessary, will not be sufficient to limit Climate Change, also dependent on eco-systemic services such as those of forests for carbon storage or wetlands for the supply of water resources, sustenance of water tables or storage of flood waters.

The NGOs strongly recommend the members states of the UN and of the Council of Europe:

²⁸ In particular the misuse of "rights to pollute" in CO².

1. To **anticipate** the effects of climate confusion through the adaptation of territories, especially concerning the use of soils, protection against extreme events, the use of natural resources and the evolution of economic activities;
2. The imperative **preservation of the health of ecosystems** through the fight against the factors of destruction or degradation that threaten them²⁹, because nature's capacity to mitigate the impacts of Climate Change is more efficient and less onerous than the likely technical answers;
3. That the **green infrastructures**³⁰ become systematically one of the tools of spatial planning in all sector-based policies³¹

E – Priority in the field of sensitization, education, information, culture and access to scientific and technological data

The necessity of sensitization, information and education of the population to allow them to take part in decision-making and implementation of public policies is obvious.

In the field of Climate Change, one has to acknowledge that despite the amount of scientific and technical data and the number of experts, uncertainties still remain about its precise impacts.

Now there is an urgency to respond to Climate Change and ready-made solutions do not exist. In these circumstances, pedagogy of disaster could apply, but the speedup of the impacts will perhaps deprive us of the necessary time for adaptation.

As it is necessary to accept that there is no zero risk situations, it is vital to explain the difference between natural phenomena and natural disasters that actually are natural phenomena, created or worsened by anthropomorphic action. Indeed people's behavior and their way of life have a direct influence on greenhouse gas emissions in the perspective of Climate Change linked to energy, pollutant release, the careless purchase and waste of food, the trash, paper, plastics, housing and transport. An evolution in the right direction already exists, but is not yet visible.

The economic crisis of recent years could certainly have as a beneficial effect a reduction of consumption and thus indirectly the emissions harmful to climate. But this effect will of course not be sufficient.

²⁹ Poorly designed infrastructures, urban sprawl, overuse of natural resources, increasingly insidious pollutions, loss of natural habitats, invasive species, loss of biological and cultural diversity.

³⁰ The aim of green infrastructure is to connect existing natural areas to improve the ecological quality of the whole, to continue to provide water and clean air and mitigate the effects of climate change

³¹ To take one example of the advantages to expect from a new development respecting nature, the green spaces in town (parks, gardens) grown without pesticides allow:

- Human development to be achieved
- Green lungs safeguarded
- The physical and moral health of citizens enhanced
- An appropriate and healthy habitat to be created
- Social cohesion supported
- Biodiversity safeguarded
- The quality of running water to be improved

Mitigating effects of Climate Change is about winning over public opinion and propose visions of the future to which it could identify. But this will need to insist as much on duties as on rights.

Open access to scientific and technical data is indispensable. It should rely on the development and use of digital tools. Indeed, Climate Change is a challenge where perception and understanding can be facilitated and shared by using Geographical Information Systems social geo-communication. To take decisions related to climate needs that are based on spatial thinking. Consequently, the best means to understand Climate Change and prepare the citizen for uncertain futures is to educate them with geographic media. Citizens should be able to use this information in an interactive and collaborative manner. This implies that this geographical information is available to all, free of charge, at any time and place and based on open data and open science.

The NGOs strongly recommend the Member States of the UN and of the Council of Europe to:

1. Prepare people for the urgency of Climate Change and to take adequate measures in order to limit and mitigate its impacts;
2. Set up measures aiming at altering the way of life without being prejudicial to the well-being of the population;
3. Organize public access to necessary data to engage citizens in participative decision-making processes and the implementation of public policies;
4. Adapt measures to be taken in prevention and in time of crisis to the cultural and social context of concerned populations.

On the occasion of the Conference of Parties to the UN Framework Convention on Climate Change, held in Warsaw in November 2013, the INGO Conference adopted a **Declaration on Climate Change and Human Rights** which Demands are recalled below:

We, international NGOs, members of the Conference of INGOs of the Council of Europe,

1. *Assert of the utmost importance to put climate change at the top of the priorities for action to ensure the future of humanity;*
2. *Are convinced that urgent and necessary solutions can only be found by involving civil society at all levels of commitment and decision-making;*
3. *Call for international negotiations beyond the strict framework of reductions in greenhouse gas emissions, integrating the protection of human rights, and taking into account the involvement of all phenomena related to climate change on the enjoyment of those rights;*
4. *Call for the respect to the right to life, dignity and mobility to include the establishment of international rules and urge States and regional institutions such as the EU, to take immediate consideration of:*
 - *The threat on habitat, water and food supply of extreme weather events*
 - *Regular assessment of natural and industrial risks exacerbated by climate change*
 - *The prevention of political and social conflicts related to resource sharing*
 - *Hosting populations forced away from their place of residence by rising waters, the scarcity of vital goods and resources or deprivation of essential services*
 - *Assistance to the populations deprived of their land and property*
5. *Request the Heads of States and Governments to integrate the Human Rights into the treaty to be adopted in Paris in 2015 and to officially recognize the right to a healthy environment as a fundamental Human Right.*

See the full text here:

<http://unfccc-councilofeurope-ingos.weebly.com/-climat-et-droits-de-lhomme.html>