

Viewpoint of the Council of Europe Commissioner for Human Rights

Climate change is causing an unprecedented, global human rights crisis – and must now be countered by co-ordinated, rights-based action

[19/10/09] **The daily lives of millions are already being affected by the effects of global warming: desertification, droughts, flooding or cyclones. Basic human rights – such as the right to life, health, food, water, shelter or property – are threatened. The ones who will suffer most are those who are already vulnerable, not least people in poor areas and among them the elderly, women and children. A strong climate deal at the United Nations conference in Copenhagen in December is, therefore, particularly important also for the protection of human rights.**

The Universal Declaration of Human Rights states that “everyone is entitled to a social and international order in which [their] rights and freedoms ... can be fully realized”. That order is undermined today by the absence of effective action against climate change.

Mary Robinson, the former UN High Commissioner for Human Rights, wrote recently that “we have collectively failed to grasp the scale and urgency of the problem. Climate change shows up countless weaknesses in our current institutional architecture, including its human rights mechanisms. To effectively address it will require a transformation of global policy capacity – from information gathering and collective decision-making to law enforcement and resource distribution”.

The challenge in Copenhagen will be to remedy these failures and to start developing a co-ordinated capacity to prevent further dangerous global warming and, at the same time, to take the necessary measures to balance the degradation which is now unavoidable or has already taken place.

This will require a unique spirit of global solidarity. We need to recognise our interdependence. The richer countries have contributed most to global warming while the poorer ones so far have had to take most of the consequences.

The carbon emission cuts pledged by developed states have certainly not met the expectations of the developing world. Neither have the adaptation funds designed to help poor nations to protect their societies against climate change impacts. This, in turn, has made developing countries less willing to restrain the increase in their own emissions.

Another flaw in the climate change discussion so far has been the lack of emphasis on human rights. Though the reports of the Intergovernmental Panel on Climate Change (IPCC) describe the social consequences of global warming, they do not apply a human rights analysis.

However, the Office of the UN High Commissioner for Human Rights has now timely released a report on the relationship between climate change and human rights. The document describes the effects of climate change on individuals and communities and underlines the treaty-based obligations of governments to protect those whose rights are affected by the impact of global warming or by the policies and measures designed to address climate change.¹

Another recent report – published by the International Council on Human Rights Policy – argues that the disciplinary boundaries between environmental and human rights law should now be crossed.² It shows that both the policy to reduce emission levels (mitigation) and the efforts to strengthen capacities of societies to cope with climate change impacts (adaptation) can be more effective if linked to human rights.

A human rights analysis would, indeed, add important perspectives to the negotiations on measures against climate change. Not least, it could help to clarify the concrete consequences on the daily lives of people and thereby remind us that climate change is about human suffering.

It is important to understand who is at risk and how they could be better protected. Knowledge about the human rights impact on individuals and communities will hopefully encourage awareness so as to prevent chain effects such as mass displacement and conflict. It can guide the targeting of assistance to the most vulnerable groups.

Human rights standards and principles would also provide safeguards which should be integrated into plans and policies to address climate change. Economic and social rights shall be protected by making best use of the available resources. In other words, they should be given priority.

This requires that affected populations have the right to be well informed and to participate in relevant decision-making through genuinely democratic processes. These intentions are reflected in the 1998 Aarhus Convention with provisions for proactive information sharing and involvement of affected people in the preparation of plans and programmes to combat environmental risks.³

There is also a burning need to discuss accountability. By using human rights standards, states can define minimum requirements for both mitigation and adaptation policies. It should be made clear that damage to the environment that goes beyond a certain threshold causing harm to certain human rights is unacceptable and illegal.

1. Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights – Summary (A/HRC/10/61).

2. *Climate Change and Human Rights. A Rough Guide* published by the International Council on Human Rights Policy, 2009. The quote by Mary Robinson is from the foreword to this report.

3. The UNECE on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), 1998.

Mary Robinson mentioned the need to sharpen the human rights mechanisms to handle the new challenges relating to climate change. There ought to be effective procedures to establish accountability and to provide reparation to victims. However, it will not be easy to establish concrete responsibility in cases where there are many perpetrators and from countries other than those where the damage is felt.

The European Court of Human Rights has to some extent recognised environmental rights (mostly in connection to Article 8 of the European Convention). In one case, the Court noted that “severe environmental pollution may affect individuals’ well-being and prevent them from enjoying their homes in such a way as to affect their private and family life adversely”.⁴

The Court has also confirmed the obligation of states to conduct proper studies before allowing an activity which could cause environmental damage and bringing those studies to the public’s knowledge.⁵

It has, furthermore, found a violation of the right to life in a case where the authorities did not take preventive action when they were aware of an increased risk of large-scale mudslides and had not kept the population informed of the risk.⁶

The European Social Charter provides for the right to health and requires state parties “to remove as far as possible the causes of ill-health” (Article 11). On this basis, the European Committee of Social Rights has held states responsible for showing measurable progress in lowering levels of pollution.⁷ The same ruling would cover nuclear hazards, risks related to asbestos or food safety.

These are just the first steps. With the growing awareness of the harm caused by climate change it will be necessary to clarify in further depth the obligations that must be connected to the right to a healthy environment.

Already the first United Nations Conference on the Human Environment, in Stockholm in 1972, declared as a right for humans to have “adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being...”

The statement did not end there: it also made clear that we all have “a solemn responsibility to protect and improve the environment for present and future generations.” Yes, that is what it is about.

4. See case of *Lopez Ostra v. Spain*, application No. 16798/90, judgment 9 December 1994, paragraph 51.

5. See case of *Taşkin and others v. Turkey*, application No. 46117/99, judgment 30 March 2005.

6. See case of *Budayeva and Others v. Russia*, application No. 15339/02, judgment 29 September 2008.

7. European Committee of Social Rights decision in the case *Sarantopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006, paragraphs 203 and 205.