



## **FES GENEVA REPORTS**

### **REPORT OF THE FES PARALLEL EVENT TO THE 16<sup>TH</sup> SESSION OF THE UN HUMAN RIGHTS COUNCIL**

#### **CLIMATE CHANGE AND HUMAN RIGHTS**

**17 MARCH 2011, UN PALAIS DES NATIONS, GENEVA**

*WILMA WOLF*

On 17 March, the Geneva Office of the Friedrich-Ebert-Stiftung (FES), the Center for International Environmental Law (CIEL), Earthjustice and WaterLex invited to the UN Human Rights Council (UN HRC) parallel event on *Climate Change and Human Rights*.

*Panelists*

- Ahmed Irfan, Maldivian Democracy Network
- Joshua Cooper, University of Hawaii
- Alyssa Johl, Center for International Environmental Law (CIEL)
- Maria Francisca Ize-Charrin, WaterLex
- Yves Lador, Earthjustice

*Moderation*

- Felix Kirchmeier, Friedrich-Ebert-Stiftung (FES)

The impact of climate change on the enjoyment of human rights is now well established as reflected in both, Council resolutions (7/23 and 10/4) and the conclusions of the 2010 Social Forum. The Maldives Universal Periodic Review (UPR) as well as some submissions from the United States of America's UPR also demonstrate that these impacts are already being felt on the ground. As the United Nations Framework Convention on Climate Change (UNFCCC) is currently insufficient to fully address those impacts, the Council has a responsibility to act.

Five panelists gave insights into current developments under the UNFCCC and the human rights bodies and discussed what will be necessary in achieving greater coherence between both processes. Key issues were whether the establishment of a Special Procedure on Climate Change and Human Rights might be a promising avenue and if such a procedure could consolidate the voices of the human rights system, clarify legal issues and undertake fact finding missions into concrete violations.

#### **Panelists give expert information**

The first speaker, **Ahmed Irfan, director of the Maldivian Democracy Network**, was referring to the climate change realities on the ground combining it with a need to address them from a human rights perspective. Taking the Maldives UPR into account, the impact of climate change on human rights, on the environment and the economy of the Maldives was demonstrated in detail. The effects on the natural ecosystem, like severe change in storm and weather patterns, temperature rise and the rise in sea level are already impacting on human rights like e.g. the Right to Water and Sanitation, the Right to Food, the Right to

Adequate Housing or the Right to Development. Only the inclusive approach of a smooth adaptation and mitigation to the climate change outcomes could guarantee the full enjoyment of human rights. This approach also has to consider the developmental perspective to create a visible link to human rights. Developing and especially Least Developed Countries (LDCs) are suffering the most from climate change consequences.

**Joshua Cooper, director of Oceania HR and professor at the University of Hawaii**, gave insights into the civil society perspective of Oceania and the United States of America (USA). While the whole world will be impacted by global warming the region of Oceania is already dealing with dire conditions. Cultural extinction and loss of homeland will be followed by mass migration and the perpetuation of a severe poverty cycle. Mr. Cooper also raised the issue of the rights of indigenous peoples who are hit most by the natural hazards of climate change. Since the establishment of the UPR process, he had also helped to raise the issue of climate change and human rights through the review of Pacific Island States by including climate change and human rights in the preparation for the civil society stakeholder reports of the UPR. The next step would be the establishment of a Special Procedure mandate for climate change and human rights. A future Special Rapporteur could contribute by visiting the people on the frontlines of climate change today and being a catalyst to bring a concerted voice into the UNFCCC.

Focusing on the recent UNFCCC negotiations, **Alyssa Johl, attorney at the Center for International Environmental Law (CIEL)** described the ongoing efforts of the Human Rights & Climate Change Working Group (an NGO working group) to advocate for the

recognition and protection of human rights in the international climate regime. For those concerned with the human dimensions of climate change, it is not enough to rely on existing human rights obligations and their implementation mechanisms. Explicit human rights protections must be included in the UNFCCC framework. Referring to the Long-term Cooperative Action (LCA) decision of the Cancún Agreements, Ms. Johl highlighted preambular language referencing Human Rights Council Resolution 10/4 and its findings, which reflects the first recognition of the human rights impacts of climate change in any international climate agreement. The LCA decision also recognizes the existing human rights obligations of Parties to the UNFCCC, stating that Parties should fully respect human rights in all climate change-related actions. Although this language marks a significant first step, the UNFCCC is unlikely to move the human rights agenda forward on its own, and therefore it is critical that the human rights regime take lead and continue building on its previous work on the linkage between human rights and climate change.

**Maria Francisca Ize-Charrin, President of the Board of WaterLex**, was focusing on the general possibilities and processes of the Special Procedures mandates highlighting a specific mandate on climate change. Ms. Ize-Charrin especially utilized the example of the Right to Water and Sanitation in showing how the assessment of climate impact on the Right to Water and Sanitation is structured in accordance with the criteria for the normative content of each right, like availability, quality or accessibility of water and sanitation. For each of those criteria, the position paper of Independent Expert Catharina de Albuquerque gives precise examples of the potential impact of climate change on human rights. For each human right potentially or already in reality affected by climate change

one could use the methodology described above. It is also of utmost importance to define the content of the States' obligations to respect, protect and fulfill the affected rights. To define those obligations and to carry out the analysis of the consequences of climate change on human rights a global, urgent and coherent approach is needed, like the option of a single mandate holder. He or she could rely on the support of all treaty bodies, the cooperation of all other Special Procedures concerned, interrelate with the UNFCCC framework and consult at the field level by being closer to potential victims.

How such a Special Rapporteur within the human rights system could build a mental bridge between the UN HRC and UNFCCC was tackled by **Yves Lador, Geneva Representative of Earthjustice**. The benefits of a specific mandate holder on climate change and human rights are definitely standing out and are defining a more global approach. The two UPR processes of the Maldives and the USA are a good example on how a purely nation-centered climate policy and the human rights system are limited in themselves to a certain extent. A global coherent approach is missing. On the other hand, UNFCCC is a largely scientific field. There is little knowledge on how people are actually impacted by climate change outcomes. A Special Rapporteur could do an important contribution with what is really happening on the ground regarding human rights in climate change and bring both fields together. A further, more general step should be the matching between UNFCCC and human rights treaty bodies, that human rights and climate change would be coherent in the respective systems.

#### **Public discussion sets focal points**

The subsequent open discussion showed new perspectives and was setting the focus on

selected items. A main issue to be tackled should be the breaking down of the barrier between environmental policy makers on the one side and human rights people on the other side. A debate between both sides is needed to spot the best way forward, including the discussion about the possibility of a Special Rapporteur in the human rights system. Same should apply for the climate change system. Thinking two or three years backwards, human rights were not even a part of the UNFCCC language. The installment of the Working Group on Human Rights and Climate Change in UNFCCC was already a big step forward bringing the two topics together at a certain level.

Even though a Special Procedure would not be able to participate directly at the climate negotiations, it could help to understand the complex nature of the issue and provide a certain amount of guidance and even be a communication forum between the two sides. The focus of a possible mandate should lie on the institutional level. There, the main part of the work is concerning information management between different institutions about knowledge that already exists, but in different forms. The institutional bodies at the global level tend to have a different language for the same topic in talking parallel but not at each other about it. The parallel points should be brought together and be mainstreamed into human rights language at different bodies to shape a global view of all developments. Lacking information about outside processes, even partially inside the UN HRC, the global view is important.

The establishment of a mandate in the human rights system itself answers the urgent need for outreach, especially aiming at delegations.

A Special Procedure would change the focus to the effect of climate change on the individual level, whereby the role of climate change now is focused on the impact of global structures and the environment.

Another focus in the discussion was the protection of the lives and rights of indigenous peoples as important vital tool and aspect to consider in terms of climate change and human rights. Indigenous peoples have the right to exercise their own culture and cultural system. This right is no longer guaranteed when it comes to the effects of climate change. Most of these peoples are living in zones where climate change is harming the nature and their natural habit the most. Here, a Special Rapporteur can function as a megaphone to include the aspects of indigenous peoples into the topic of climate change and human rights. The above mentioned UNFCCC working group is also including this topic in its work. For bringing up examples from the field, the Asian Pacific Economic Cooperation (APEC)-summit was mentioned as featuring an institutionalized forum for indigenous peoples' voices.

Not only indigenous peoples' rights should be addressed in climate change specific negotiations but all the issues with discriminatory aspects in climate change effects. The environmental issue has moved and changed throughout the years beginning to take some of these issues already into account. Nevertheless, a global dialogue concerning human rights and climate change has to be taken up immediately to a continuous insertion of human rights language into climate change negotiations and vice versa.

*On the author*

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