

A rights-based approach to adaptation Prioritizing people most vulnerable to climate change

Submission by Germanwatch, Bread for the World and CARE International to the Ad-hoc Working Group on Long-term Cooperative Action (AWG-LCA), 6th December 2008¹

Summary

This submission particularly refers to paragraphs 94, 95, 96, 97, 100 and 114 of the “Assembly text” as of 20 November 2008.²

It outlines key elements of a rights-based approach to adaptation, based on human rights such as the right to food, the right to water and the right to housing. The added value of such an approach for the effectiveness of adaptation policies can be summarised as follows:

- It could function as a strong reference system to qualify adaptation measures without creating new conditionalities because it derives from widely accepted international human rights;
- It could create common ownership on standards;
- It includes procedural rights;
- It empowers the vulnerable as rights holders;
- It prioritises actions to assist most vulnerable populations;
- It includes complaint procedures.

These are seen to be important elements to guide the development and implementation of national adaptation strategies as they are important for the fulfilment of human rights. Thus, Parties should explore how they can be implemented through financial and technological means provided by a future climate change agreement.

Objective

The key objective of applying a human rights-based approach to adaptation is to provide Parties with a reference framework for how to identify and address the needs and rights of people most vulnerable to climate change. This framework is based on international human rights standards. The adverse impacts of climate change pose as an increasing threat to the fulfilment of basic human rights, including the right to adequate food. Parties, in particular developed country Parties, have the “obligation to support the fulfilment” of human rights in other countries, where that fulfilment is at risk from climate change.

Rationale

The Bali Action Plan underscores the importance of identifying and prioritizing countries for adaptation support. Parties must go one step further, however. Adaptation policies must address differential vulnerability *within* the most vulnerable countries and take into account the obligation to fulfill human rights, particularly the right to food. Adaptation policies must be based on a verifiable climate change impact and risk assessment, which systematically identifies and ranks the most vulnerable groups of communities, households and individuals. Adaptation programmes must reduce the risk for people most vulnerable to climate change and secure their livelihoods. The fulfilment of human rights can strengthen the response capacity of developing countries by setting minimum standards to qualify State adaptation policies and setting minimum standards to set priorities for State policies.

Examples of rights-based adaptation measures

There are a number of concrete examples of rights-based adaptation:

- Within the context of disaster risk reduction, a rights-based approach to early warning systems would include the identification and participation of people who need to be served the most by early warning systems, but who are often unable to access such crucial information.
- Adaptation measures that aim to preserve and protect food, like storage facilities, could improve food security and overall resilience of the most vulnerable people during floods or droughts.

¹ This submission builds on Bread for the World/Germanwatch 2008: „Climate change, food security and the right to adequate food“. <http://www.germanwatch.org/klima/climfood.pdf>

² FCCC/AWGLCA/2008/16

- Furthermore, measures that address underlying, structural causes of people's vulnerability, such as economic, political or social marginalisation, could strengthen the adaptive capacity of vulnerable people, and therefore their ability to fulfil their basic human rights.

Building on existing international legal references

Particularly relevant to the UNFCCC negotiations is the fact that a human rights-based approach to adaptation is derived from existing international legal agreements.

- The human right to food is enshrined in Art. 11, UN Covenant on Economic, Social & Cultural Human Rights ICESCR (1966);
- The General Comment No. 12 of the UN Committee on Economic, Social & Cultural Rights is the most authoritative legal interpretation of the right to food (1999);
- The “Voluntary guidelines on the implementation of the right to adequate food in the context of national food security,” adopted by 191 member states of the Food and Agriculture Organisation (FAO) in November 2004, aims to support the progressive realisation of the right to adequate food in the national context.

Thus, a human rights-based approach to adaptation within the UNFCCC builds on widely accepted international human rights standards and does not add new conditionalities.

Procedural aspects of a human rights-based approach

As duty bearers, States are, by their own legally binding or voluntary commitments, obliged to respect, protect and fulfil human rights. Such rights are at risk due to the adverse impacts of climate change. Therefore, States have a duty to ensure that adaptation policies and programs contribute to the fulfilment of human rights. In terms of procedures, national planning and implementation of adaptation should follow a step by step approach, with at least the following elements:³

1. States must assess and identify the people and groups most vulnerable to climate change, whose human rights are threatened by the adverse impacts of climate change. With such systematic vulnerability and adaptation assessments and mappings, States can prioritize adaptation support for these groups.
2. States must ensure that existing legislation addresses the concerns of people and groups most vulnerable to climate change, and that the legislation does not lead to de jure discrimination and violations.
3. States must ensure that policy responses and instruments (de facto) are reasonably focused toward the most vulnerable people and groups. Policies should respect, protect, and facilitate access to productive resources, income, and food. States must prove that they are doing the utmost to implement the right to adequate food and helping people cope with and adapt to risks.
4. States must monitor the outcome of their policies.
5. States must put in place accountability mechanisms, including functioning complaint mechanisms and access to recourse procedures for the most vulnerable.

This means that States must create an environment that enables inclusive, transparent and participatory decision-making on adaptation planning and implementation at all levels.

Obligation to support the fulfilment of human rights

Parties have the obligation to support the fulfillment of human rights in other countries. There is some similarity in the UNFCCC obligation for industrialised countries “to assist non-Annex I Parties the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects” (Art. 4.4). Developed country Parties are therefore obligated to assist countries particularly vulnerable to climate change in adaptation – as well as to build their skills and capacity to develop and implement national adaptation strategies, which contribute to the fulfillment of their human rights obligations.

³ National strategies are asked for in the General Comment No. 12 but also in the Voluntary Guidelines. See Windfuhr, M. 2001: Deutschlands Erfüllung seiner internationalen Verpflichtungen gemäß dem Internationalen Pakt über wirtschaftliche, soziale und kulturelle Menschenrechte. In: Social Watch (ed.): Jahresbericht 2001, Bonn