



## **Submission by the United Nations Special Rapporteur on human rights and the environment, Mr. John Knox<sup>1</sup>**

### **Introduction**

#### ***Public access to information***

The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights provide that the right to freedom of expression includes the freedom to seek, receive and impart information. The right to information is also critical to the exercise of other rights.

States should assess the climate effects of major activities within their jurisdiction. Such assessments should include the transboundary effects of the activities. But even with respect to the effects of climate change that are felt within a State, assessments are an important method of clarifying impacts, especially on vulnerable communities.

Assessments and public information are also important with respect to actions designed to alleviate the effects of climate change. The obligations of States to respect and protect human rights apply with no less force when they are taking mitigation or adaptation measures.

#### ***Public participation***

The obligation to facilitate public participation in environmental decision-making has strong roots in human rights law. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights recognize the baseline rights of everyone to take part in the government of their country and in the conduct of public affairs. Again, human rights bodies have built on this baseline in the environmental context, clarifying the duty to facilitate public participation in environmental decision-making in order to safeguard a wide spectrum of rights from environmental harm. There can be no doubt that this duty encompasses decision-making in relation to climate policy.

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<sup>1</sup> For more information, see

<http://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

To be effective, public participation must include the provision of information to the public in a manner that enables interested persons to understand and discuss the situation in question, including the potential effects of a proposed project or policy, and must provide real opportunities for the views of the affected members of the public to be heard and to influence the decision-making process. These requirements apply not only to decisions about how much climate protection to pursue, but also to the measures through which the protection is achieved. Decisions on mitigation or adaptation projects must be made with the informed participation of the people who would be affected by the projects.

To enable informed public participation, the rights of freedom of expression and association must be safeguarded for all people in relation to all climate-related actions, including for individuals who oppose projects designed to mitigate or adapt to climate change. To try to repress persons trying to express their views on a climate-related policy or project, whether they are acting individually or together with others, is a violation of their human rights. States have clear obligations to refrain from interfering with those seeking to exercise their rights, and States must also protect them from threats, harassment and violence from any source.

At the international level, States should ensure that projects supported by climate finance mechanisms respect and protect all human rights, including the rights of information, participation and freedom of expression and association.

### Good practices

- *Australia's National Indigenous Climate Change Partnership*

The National Indigenous Climate Change (NICC) project is a forum established in 2008 by indigenous leaders to provide dialogue between corporate representatives, indigenous peoples and other experts about issues, risks and opportunities associated with climate change and participation in carbon markets. According to the project's webpage, the project "(along with other organizations and alliances representing Indigenous perspectives) has worked to identify mutual opportunities with representatives of Corporate Australia and to have issues such as land tenure, native title and cultural and moral rights addressed by Government in the formulation of an emissions trading scheme."

The NICC Project established a working group, composed of indigenous peoples, climate change experts, and corporate representatives, to carry out its programmes. It is overseen by a Steering Committee of indigenous leaders. In addition to providing networking opportunities, the working group also promotes opportunities for indigenous peoples to participate in the development of carbon markets. For example, the NICC project facilitated a national forum on indigenous climate change opportunities in March 2011 which brought together indigenous leaders from throughout Australia who produced an official communiqué to the Australian government on its carbon market initiatives; negotiated with Australian Government representatives on the drafting of a carbon farming initiative (CFI) law (an

initiative that allows farmers and land managers to earn carbon credits by storing carbon or reducing greenhouse gas emissions on their land), including pathways for indigenous peoples' participation in the CFI; organised a delegation that presented at a Parliamentary Senate inquiry into carbon farming; and published reports on benefit-sharing schemes from carbon-reduction projects implemented on indigenous peoples territories.

#### FURTHER INFORMATION

Information about the NICC is available at:

<http://www.indigenousclimatechange.com.au/casestudy6.aspx> ; see also Robinson et al., Providing Opportunities and Setting Standards for Indigenous Rights to Carbon and Co-Benefits: A Case-Study Analysis of Australia's National Indigenous Climate Change (NICC) Project, paper prepared for the 3d UNITAR-Yale Conference on Environmental Governance and Democracy, 5-7 September 2014, New Haven, USA:  
<http://conference.unitar.org/yale2014/session-2-investigating-specific-issues-human-rights-environment-interface>

- *Guatemala's Climate Change Framework Law*

Guatemala adopted a comprehensive climate change framework law in September 2013 (Ley Marco para Regular la Reducción de la Vulnerabilidad, la Adaptación Obligatoria Ante los Efectos del Cambio Climático y la Mitigación de Gases de Efecto Invernadero). The law's objective is to establish the necessary regulations to prevent, plan for and respond to the impacts of climate change in the country and for all levels of government and civil society to play a role in the adaptation process.

The law has several important elements relating to human rights. For example, the law's guiding principles provide that the government consider ethnic, cultural and gender perspectives and identify and promote traditional and customary practices relating to natural resource management that can contribute to adaptation to climate change impacts and reduction of emissions. The guiding principles also provide that the government include broad public participation in designing and carrying out climate change actions. In this regard, the law created the National Council on Climate Change (NCCC), which includes representatives of government ministries from national and sub-national levels, members of civil society, members of indigenous peoples' organisations, corporations, and academic institutions. The NCCC is tasked with regulating and monitoring the implementation of actions arising out of the law, including the design and implementation of climate change policies, strategies, plans, programmes, and mitigation and adaptation measures. In addition, the law requires that all public institutions at the national and sub-national levels promote and facilitate outreach, education and public awareness activities throughout the country in order to promote proactive public participation in all climate change actions. The law also requires the development of institutional plans that prioritise addressing the impacts from climate change on human health.

#### FURTHER INFORMATION

More information about the Guatemalan climate change law can be found at <http://www.marn.gob.gt/Multimedios/1587.pdf>

- *Project on Reducing Climate Change Risks to Water Resources in Honduras*

According to the UN Development Programme (UNDP), Honduras is one of the most vulnerable countries in Latin America to climate change, with its water resources particularly at risk. Moreover, population growth has led to the increased habitation of low-income populations in areas prone to increased landslides and flooding from climate change-related weather events. This project, funded by UNDP, seeks to increase resilience to climate change water-related risks in the most vulnerable populations in Honduras. The project, which focuses on Tegucigalpa City and its surrounding areas, began in 2013 and is scheduled to be completed in 2015. The project has three main components or areas of work.

The first component seeks to integrate climate change risks into water resource laws and plans, while increasing capacities of government regulators to implement the amended laws. The second component pilots adaptation measures to safeguard the water supply to Tegucigalpa in 14 vulnerable areas. For example, in November 2014, the project retrofitted 38 houses to collect rainwater, which is diverted to a 63,000 litre tank at a public school that services 500 students. This initiative reduced water infiltration into the soil to minimise the risk for landslides, while providing a much needed secondary source of drinking water for school children. The third component of the project seeks to train decision makers and the public to understand the projected impacts of climate change and identify effective options for reducing climatic risks and vulnerability. For example, the project maintains an up-to-date website and monthly bulletin with information relating to all the initiatives the project has implemented. In November 2014, the Honduras Secretaria de Recursos Naturales y Ambiente (SERNA) organised a regional symposium on climate change, where professionals working on climate change adaptation projects were invited to exchange information and experiences.

#### FURTHER INFORMATION

The project's website: <https://acchonduras.wordpress.com/>.

- *National Climate Change Policy and Sector Guidance Framework*

In 2013 the Jordanian Ministry of Environment published the National Climate Change Policy of the Hashemite Kingdom of Jordan: 2013-2020, which assesses the impacts from climate change on Jordan and recommends a number of mitigation and adaptation measures.

The Policy integrates a human rights approach to climate change mitigation and adaptation. For example, the Policy lists as a short-term objective that the “interests of vulnerable groups, with emphasis on the poor, youth and gender are adequately addressed in mitigation and adaptation policies and strategies.” The Policy also outlines the potential impacts of climate change in a number of areas, including food security, human health, water resources, and tourism, and proposes adaptation measures to reduce these impacts. Public participation is one of the cornerstones of the Policy, including a campaign to increase public awareness and provisions for public consultation. For example, the Policy states that “Stakeholders buy-in and continuous involvement is required to guarantee the sustainability of actions towards

mitigation and adaptation to climate change and successful implementation of mitigation and adaptation actions.” The Policy explains that it will be implemented through existing laws and regulations and by multiple government departments.

In October 2014, the German Organization for Technical Cooperation gave Jordan’s Environmental Ministry a €6.5 million grant, most of which is allocated to assist in implementation of the Climate Change Policy.

#### FURTHER INFORMATION

The National Policy can found at:

[http://www.jo.undp.org/content/dam/jordan/docs/Publications/Climate%20change%20policy\\_JO.pdf](http://www.jo.undp.org/content/dam/jordan/docs/Publications/Climate%20change%20policy_JO.pdf). Information on the recent German grant is available from the Jordan Times web site: <http://jordantimes.com/giz-earmarks-65m-euros-to-address-environmental-challenges-in-jordan>

- *Scottish Climate Justice Fund*

Scotland’s Parliament has played a key role in addressing climate justice. In March 2012, the Scottish Parliament through a unanimous motion became the first legislative body in the world to explicitly recognize and support the concept of climate justice:

“The Scottish Parliament strongly endorses the opportunity for Scotland to champion climate justice, which places human rights at the heart of global development, ensuring a fair distribution of responsibilities and welcomes the Scottish Government’s commitment to ensuring respect for human rights and action to eradicate poverty and inequality, which are at the heart of Scotland’s action to combat climate change both at home and internationally and strengthening Scotland’s support for developing countries on climate change as part of Scotland’s international profile.”

In 2012, the Scottish Government launched a £3 million Climate Justice Fund to support the development of water adaptation projects in four African countries: Malawi, Rwanda, Tanzania and Zambia. At the end of 2013, the Government launched a second £3 million Climate Justice Fund. According to the Government, the second round of funding should “address specific climate justice principles through a human-rights based approach: approaches which empower vulnerable groups in decision-making and access to resources and realising their rights – through inclusion, equality, transparency, participation, and information – and so delivering climate resilience, strengthening civic society, alleviating poverty, and benefiting the wider environment.” The Scottish Government’s website lists successful projects financed by the Fund. For example, one project in Zambia helped poor farmers, especially women, adapt to the effects of climate change by building their resilience to more frequent and extreme droughts and floods, securing their rights to water, sanitation and hygiene services, and improving their food production.

#### FURTHER INFORMATION

[http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S4M-02156.2&ResultsPerPage=10;](http://www.scottish.parliament.uk/parliamentarybusiness/28877.aspx?SearchType=Advance&ReferenceNumbers=S4M-02156.2&ResultsPerPage=10)

[http://www.gov.scot/Topics/Environment/climatechange;](http://www.gov.scot/Topics/Environment/climatechange)  
<http://www.scotland.gov.uk/Topics/Environment/climatechange/climatejusticefund/ProjectMonitoring/SuccessfulProjects>

- *Suriname's Reducing Emissions from Deforestation and Forest Degradation (REDD+) Assistants Programme*

Reducing Emissions from Deforestation and Forest Degradation (REDD+), an international effort that was initiated by the 16th Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC 1/CP.16 2010, ¶ 70), seeks to create incentives for developing countries to reduce emissions from deforestation and forest degradation through a variety of activities, including through forest conservation and the sustainable management of forests. According to the UN-REDD Programme (a consortium of UN agencies that provide support to developing countries to implement REDD+ projects), as of June 2014, 53 countries across Africa, Asia-Pacific and Latin America are participating in REDD+. Because REDD+ will require developing countries to implement specific project to reduce emissions, there is potential for conflict, such as over the rights of indigenous and other communities to forests, farmland and natural resources.

To protect the rights of indigenous peoples, Suriname created the REDD+ Assistants Programme, in which representatives selected by their own communities are trained by the government to understand REDD+ and to help involve indigenous and tribal peoples in the REDD+ decision-making process. According to Suriname's REDD+ readiness preparation proposal (RPP), a preliminary document prepared by REDD+ participant countries, the government has trained representatives from each of Suriname's indigenous and tribal communities to facilitate outreach and consultation on REDD+ projects with their communities and to train others in their communities about the REDD+ initiative. Suriname's RPP notes that "effective participation of indigenous and tribal people will be necessary for impact analysis, design of benefit sharing system, grievance and conflict resolution, monitoring and evaluation of the REDD+ strategy."

#### FURTHER INFORMATION

More information on Suriname's REDD+ Assistants Programme is available in its readiness preparation proposal:

[http://forestcarbonpartnership.org/sites/fcp/files/2013/june2013/REVISED\\_Suriname%20RPP%20finaldraft%2022Juni.pdf](http://forestcarbonpartnership.org/sites/fcp/files/2013/june2013/REVISED_Suriname%20RPP%20finaldraft%2022Juni.pdf); the UN-REDD website: <http://www.un-redd.org/Home/tabid/565/Default.aspx>

## Recommendations

**States have procedural obligations to assess and provide information about the effects of climate change, to ensure that climate decisions are made with the informed participation of the public and to provide for effective remedies for climate-related violations of human rights. They must protect the rights of freedom of expression and association in relation to**

**all climate actions, even when the rights are being exercised in opposition to projects supported by the authorities.**