

## Climate Justice

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The HUMBOLDT VIADRINA Center on Governance through Human Rights is consulting on Climate Justice (Mihr 2017). In the context of human rights and good governance Climate Justice involves different stakeholders and institutions and supports the cause of justice for those affected by climate change.

Climate Justice is a human rights based approach towards adaptation and mitigation efforts in the context of climate change. Policy makers, enterprises, scientists and civil society are key actors in responding to the effects of climate change in a human rights complying manner. Distribution of welfare and resources, resettlements and urbanization, labor and migration are some of the few policy fields that are currently affected by climate change. If more and more people have to emigrate due to climate induced socio-economic changes from their country of origin or resettle within their country, it has consequences for citizen rights, political participation, labor, fair distribution of resources, food security and economic development. Climate Justice aims to

respond to such possible disputes and challenges of governance.

Out of over 240Mio migrants today, at least 60Mio are so called 'climate refugees'. They will seek equal access to resources and political participation and thus Climate Justice has to be seen as a cross-cutting issue for any public and development policy. Millions of them live and work in foreign countries and therefore do not enjoy full citizenship rights and are thus kept out of full political participation (Manou/ Baldwin/ Cubie/ Mihr/ Thorp 2017). In addition many of those who have to migrate due to climate change live in unfamiliar territory where they cannot exercise their skills or professional qualifications, for example farmers that suddenly have to move to cities and cannot return to their land. Families are separated by (natural) force. They often lack proper housing and living conditions, and may be driven into poverty. The list of consequences that qualify as human rights violations is long.

International, regional and local governance regimes as well as private

enterprises are required to safeguard the rights of the most vulnerable people and share the burdens and benefits of climate change. At COP 21 in Paris and the following COPs governments have emphasized the role of different stakeholders when taking responsibility for reparations, compensation and mitigation of climate change consequences for people. If we aim to prevent people from migrating, losing their homes and work, not being able to access education or to participate in decision-making processes concerning the consequences of climate change, justice cannot be upheld. Moreover, Climate Justice acknowledges the need for equitable stewardship of the world's resources (Mary Robinson Foundation 2014a).

### **Global agreements & human rights policies**

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Over the past decade various global agreements on Climate Justice among different stakeholders have been manifested, such as during 21<sup>st</sup> Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) held in Paris in 2015 and during the COP 22 in Marrakesh in 2016. Apart from agreeing on putting in place measures to limit the global temperature increase to well below 2°C and other relevant actions, what was most significant for the understanding of the concept of Climate Justice was the agreement on 'loss and damage' and holding states or non-state actors, such as companies and enterprises, accountable

for their share in climate change and its consequences; and by naming actors and those responsible for implementing the required changes. However, only naming actors will not 'involve or provide a basis for any liability or compensation,' but a first step to identify existing obligations and those private or public actors that are responsible for the effects that lead to climate change. Even though liability and compensation seem to be off the table for the time being, the identification of who has been responsible for the causes of climate change is already a step forward. The agreement on 'loss and damages' therefore helps to identify root causes and consequences and helps to 'repair' some of the damage and avoid similar consequences in the future (Center for Climate and Energy Solutions 2015).

The only benchmark on how to identify liabilities is the international human rights framework as defined by the UN or other regional organizations. The UN, the Council of Europe, the African Union and the Organization of American States have already defined climate change induced consequences for human rights. The globally agreed human rights norms and standards will help to identify how to compensate individuals and peoples who are affected by climate change and thus restricted from fully enjoying their human rights, i.e. to development, to health, to water and food or to free participation and assembly to defend their interests. Millions of people lost their civic rights due to migration to another country. They lost

their fertile land, cattle and work and thus their human rights to provide living for themselves and their families. If these people lack self-determination they are deprived of their dignity. But the rights holders' entitlements they are given by the universal human rights framework are independent from any citizenship they may hold or not.

Of similar importance for Climate Justice are the Sustainable Development Goals (SDGs) as agreed upon by the United Nations in 2015. Goal 13 of the SDGs directly connects climate change and the importance of human rights (United Nations 2016). Through these goals, stakeholders jointly aim to: (1) strengthen the resilience and adaptive capacity to climate-related hazards and natural disasters in all countries, including increasing the capacity of people to participate in decision-making processes concerning climate change; (2) to integrate climate change measures into national policies, strategies and planning; and (3) to improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning. Such objectives can only materialize if gender equality is guaranteed, access to education increased and information and the right to participate, independently of citizenship or other ethnic and religious background, are guaranteed. Human rights are therefore clearly a part of the climate change regime and define Climate Justice (Mary Robinson Foundation 2014b).

Climate change today is seen as a global phenomenon that has divided societies but also identified avenues to unify them, for example, through a human rights based approach to climate migration. Climate Justice is thus about how resources, wealth and access to quality of life are guaranteed under dramatically changing conditions that do not stop at borders of any kind. It endorses the human rights of people to development, freedom and a healthy and sustainable environment, and reflects the full spectrum of international human rights law.

### Climate change consequences

Climate change is perceived as an environmental as well as a socio-ecologic and economic threat that leads to human rights violations, particularly against the poor and marginalized people (Cameron et al. 2013). The UN Intergovernmental Panel on Climate Change (IPCC) concluded climate change is a phenomenon, which is unequivocal, accelerating, and very likely anthropogenic (IPCC 2014). It is reinforcing the intensity and frequency of extreme weather events including floods, storms, heat waves, droughts and tornadoes. This, in turn, has profound consequences on human development and human rights. Women's and indigenous people's rights, along with the more general rights to life, food, health, water, adequate housing, culture and self-determination are all affected by climate change (Cameron et al. 2013, p. 3-6). Calling these dramatic changes a 'human tragedy in the making,'

UNDP has warned that allowing such a tragedy would cause a systematic violation of the human rights of the world's poor and future generations and represents a step back from universal values (UNDP 2007, p. 4).

As a response to these consequences Climate Justice aims to treat all people equally and to uphold their human rights in the face of the multiple threats that climate change may create – independently of people's citizenship, ethnic or religious background, gender or otherwise discriminatory background. Thus, climate change can even be considered a 'chance for universal human rights' because governmental as well as private actors and civil society are urged to work together to respond to the consequences and solve the problems jointly by means of global standards.

Climate Justice hence encompasses the full spectrum of the human rights and their mechanisms, in the form of global, regional and domestic human rights regimes, including the UN human rights monitoring bodies, regional structures such as the African Union, the Organization of American States, the European Union or the Council of Europe, and national human rights institutions around the world. When founded in 1948, the international human rights law regime was meant to protect against autocratic states and (mainly) governments and state authorities that violate and abuse human rights. The need to safeguard human rights against consequences of natural disasters, floods,

desertification, sea level rise or droughts was not explicitly considered at that time. Therefore, the 'perpetrators' or violators of human rights arising from climate change are not clearly named or identified. Who can and will take responsibility for human rights violations, and who can or should be held accountable for the consequences of climate change?

Anywhere in the world, actors and institutions, such as UNFCCC, regional organizations as well as international and domestic courts aim to hold stakeholders accountable and to identify duty-bearers at various levels of society including private, corporate, public and individual actors. Even though liabilities have not been defined thus far, the first step to Climate Justice is to identify the duty-bearers who carry responsibilities for the causes and impacts of climate change. Although identification of possible liability of companies or state actors is still in its infancy, this issue was high on the agenda at the annual COPs. For example, if natural forces directly or indirectly linked to climate change lead to the violation of an individual's rights, such as the loss of housing or work, their right to access to water and food or property, then the different duty-bearers or stakeholders should be held accountable for these violations. But who are these duty-bearers? And how can they be held accountable? In order to understand the difficult debate about Climate Justice, it is worth taking a look at these questions.

One way of approaching this is to link Climate Justice to intergenerational justice and the ‘human right to a green future.’ Intergenerational justice calls upon all of us to consume, act and behave more responsibly and work towards a healthy environment in order to safeguard the basis for dignified living for future generations. It is a concept of justice that can therefore best be pursued within democratic societies, because it allows participation of all citizens alike and for them to take responsibility for their own actions. Only under modes of democratic and good governance can substantive and procedural human rights be protected and guaranteed for all generations, present and future (Hiskes 2008, p. 143). But without involving or thinking about those who are most affected by climate change – namely future generations - to participate in the debate, Climate Justice cannot be achieved. Others argue more in favor of moral obligations that humanity has towards future generations (Griffin 2015, ch. 14). Our human obligation regarding global warming is implicit in our understanding of human rights and responsibility for the future. Intergenerational justice thus calls upon today’s generation to act fast and decisively to save the planet for our descendants. This means we ought to transcend our narrow physical and political boundaries and mindsets of narrowly defined self-interest, and act globally. There is thus a moral obligation to prevent the planet from heating up and thus destroying peoples livelihoods.

Climate Justice refers thus to the causes and effects of a changing climate upon the individual, whenever this effect is creating injustice and inequality, for example, if people lose their homes or workplaces due to droughts, floods or other environmental catastrophes. In many cases those people will no longer be able to make a living out of their profession because they no longer have access to fertile land or their profession becomes obsolete in changed conditions. If then access to justice or compensation is denied or if duty-bearers deny the freedom of speech and assembly against the reckless behavior of companies or governments that fail to protect people from climate change-induced disasters, then Climate Justice aims to find solutions to the imbalance of power and governance. Consequently, Climate Justice aims to give people and individuals opportunities to claim their rights when their livelihoods are affected by climate change.

Other concepts such as environmental justice (i.e. the right to a healthy environment) or social justice (i.e. to guarantee development for all) contribute to the concept of Climate Justice. All of them are using a people-centered and thus human rights based approach, which delivers outcomes that are fair, effective and transformative, thus serves as a tool to overcome great injustice. Or, as Mary Robinson puts it, ‘climate justice is a human-centered approach linking human rights and development. It protects the rights of the most vulnerable and aims at sharing the burdens and benefits of climate change and its resolution equitably and

fairly.’ (Mary Robinson Foundation 2015, p. 1). It is about ensuring, both collectively and individually, that we have ‘the ability to prepare for, respond to and recover from climate change impacts and the policies to mitigate or adapt to them by taking account of existing and projected vulnerabilities, resources and capabilities.’ (Preston et. al. 2014).

### Global and local response & responsibilities

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Appeals to our morality, ethics and responsibilities will not be enough. Clear facts and data, as well as causal links between climate change and natural disasters and economic breakdowns, are more persuasive but have to be linked to human rights. Otherwise sustainable and long lasting decisions for future generations cannot be taken effectively. Over the past decade, the UN Office of the High Commissioner for Human Rights (OHCHR) has repeatedly emphasized the urgent need to combine the climate change and human rights regimes and thus to identify the ‘perpetrators’ as well as victims of violations of human rights. Although we know the root causes of climate change today, we do not know whom to hold politically – let alone legally – accountable. Neither do we know where to file claims, prosecute or indict those responsible. A ‘Global Court for Climate Justice’ is still to be seen. National judicial and political accountability is insufficient in many states. Governments often treat issues such as forced resettlements as

either charity by the state or under the auspice of ‘natural disasters’ or ‘emergencies’ resulting from higher natural forces. In other cases, international public law or private law is applied – yet these are insufficient to hold all those accountable for the specific losses an individual or family may face. The UN Human Rights Council has recognized this in its many resolutions related to climate change. The first resolution in 2008 states that climate change poses an immediate and far-reaching threat to individuals, families and communities around the world. It thus requested the OHCHR to prepare a study and to ask for immediate *joint* action (and jurisdiction) by its member states that would set clear responsibilities for governments, as well as private companies, in respect to human rights violations (Wewerinke 2014).

Thus, the global UN human rights regime with its plethora of international human rights agreements, conventions, covenants, treaties and declarations has had to be adapted and reconciled with the challenges posed by climate change. But it is yet to be seen how it can respond to victims of climate change. The main challenge in this is that climate change induced violations are partly human-made and partly environmental by nature. Thus, who should be held accountable? Moreover, climate change is first and foremost a cross-border issue, not a national one. At the same time, its effects are very local and holding stakeholders responsible and bringing justice about is

mostly done on a domestic level. Compensations for those who have to resettle due to droughts or floods, such as the citizens of some small Pacific Islands, are paid by whom, if the country of origin no longer exists and those responsible for the rise of sea level are in the Global North?

If after floods people have no access to clean water, food or work because their land is under water or simply no longer exists, such as it is frequently the case in India or Bangladesh's rural areas, governments need to respond urgently. Giving these people shelter and food as an act of charity will not do for long and is by no means a sustainable policy.

Indigenous people, already enjoy specific rights under international human rights law, but they can only claim them if the government violates their specific rights regarding language, culture, territorial abduction, and cultural heritage. But they cannot protect their human rights if they are violated through natural disasters, which are not clearly linked to human-made environmental change or global warming. Islanders in the Pacific, the Sami and Inuit in the Polar region, or the Amazonians in South America, all claim massive land losses and loss of traditional ways of life because of environmental changes and thus claim that their grounds for living, farming and culture have been violated and destroyed (Heyward 2014).

Once people's lands, fields or territory submerges, erodes or floods and people are forced to leave their homes, the problem of accountability and legal

entitlements has started. These people are often called climate refugees, environmental refugees or climate migrants, aiming to give them some form of legal status. But their legal status is far from being clear. Their rights and entitlements are not (yet) clearly covered under international law, neither by international refugee law, which defines 'refugees' as persons who have a well-founded fear of persecution based on one of five enumerated grounds. Moreover, the UN definition indicates that if the situation in their homeland or territory improves and is pacified, then the refugee may return back to their land, house and workplace. This condition is impossible if people migrate due to climate change because their land, home and workplace may no longer exist— unless one manages to farm under the sea level or through desert sand.

The result is that climate change contributes to the formation of new categories of marginalized or vulnerable groups that do not enjoy legal status either domestically, or internationally and they can be called 'climate change victims.'

### **Good governance & justice**

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Climate change victims exist not only in conflict-torn or autocratic societies run by dictators or war lords, where climate change is nevertheless often one of the root causes of conflict, but also in democracies such as in Europe where people have to resettle because of floods. This poses a new dimension to Climate

Justice. Climate change equally affects people in developed and less developed countries, for example those that need to be resettled due to coastal erosion, frequent flooding or droughts and desertification in the US, the UK, Australia, the Czech Republic or Spain in recent years. But the advantage of these societies is that they already have established democratic processes for policy-making and conflict resolution that allow those affected by climate change to express their protest and to participate in solution-finding processes at the national or international levels. They also manage resettlements and compensation and thus avoid large-scale uncoordinated internal migration. Many governments have established mitigation schemes such as requalification programs to qualify farmers for urban labor markets or compensations for land and housing. But the majority of the 60Mio uprooted people do not benefit from such actions and support because they live in less democratic and wealthy societies. Therefore, we hear more about victims of climate change in societies such as Bangladesh, Kenya, the Pacific Islands or Nigeria than in the UK or the Czech Republic. Thus, the question may arise whether climate change adaptation and mitigation policies are less about Climate Justice, but rather about good climate governance?

In its worst-case scenario the International Organization of Migration estimates that within one generation by 2050, up to 200Mio people may be uprooted due to

climate change (IOM 2008). Most of them will be located in poor and/or less democratic countries in Asia and Africa, in which due to bad public and global policies, increasing frequency of extreme weather events, rising sea levels, droughts, increasing water shortages, and the spread of tropical and vector born diseases, massive migration moves will ensue (UN Office of the High Commissioner for Human Rights 2016).

In addition, the on-going migration has affected civil, political and economic human rights and thus our fundamental freedoms. Climate change victims may lack basic citizenship rights and are often treated as asylum seekers instead of refugees, because the 1951 UN Convention on Refugees gives little or insufficient explanation on how to define and classify climate change induced and forced migration. These uprooted people lack participatory rights and entitlement and therefore cannot participate in decision-making processes and cannot express their claims or freely assemble because they are held in specific camps or they are denied these citizen rights because of their foreign and refugee status. Women and children generally are most affected. In countries such as Bangladesh, they are staying on their land until the last moment because their only ground of living is their house and little farm. Men generally leave these areas earlier to seek work and income in urban areas, but their families stay at home. Thus, the death rate among women and children is higher than among men,

when the floods come. They are less mobile because of farming and childcare, and, generally speaking, they are less educated and thus less flexible to move and seek new forms of income (Yavinsky 2012). Specific human rights for migrant workers only apply to a limited extent to them. These examples and reactions illustrate that the full spectrum of good governance and human rights principles apply to the concept of justice in the climate change regime.

### **Recommendations & Ways forward for Climate Justice**

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Climate Justice differs from other individual or social justice concepts in one fundamental aspect. It marks social regimes and how they apply justice to ethical and social decision-making for the well-being of society across all generations and national boundaries. Thus, good, transparent, accountable and participatory climate governance based on human rights aims to give an alternative to the irresponsible if not reckless 'environmental mismanagement regime' supported by governments, business and consumers alike. These stakeholders, including companies and governments, should be punishable, if they misuse their responsibilities towards good climate governance. In this context, both individual and social justice concepts apply to Climate Justice, or vice-versa. Thus, companies and individuals should also be held liable and accountable for the consequences of their actions with the aim of changing these

actors' behavior in the future. Adapting individual responsibility for the concept of Climate Justice means that a person should not be disadvantaged or punished except for intentional negligent faults or wrongdoings such as reckless CO<sub>2</sub>-emissions or mono-agriculture in fragile environments. Adherence to fairness and equal opportunities is one of the principles often highlighted by the IPCC and other stakeholders such as the Mary Robinson Foundation, based on the premise that Climate Justice has to safeguard the dignity of people, as the underlying/overarching principle of all human rights.

Therefore, the full spectrum of international human rights norms, standards and law ought to be applied to international as well as national jurisdiction for climate change affected people and societies. Human rights norms and good governance principles serve as benchmarks on how to govern climate change induced migration or economic changes. Thus, one of the ways ahead to tackle it is through the concept of Climate Justice based on human rights in order to enhance an international rule of law culture that allows us to comply with common norms and standards to bring justice to those most in need and most affected by climate change.

This process calls for various actors and stakeholders to react, decide and implement decisions that overcome injustice. It requires parliaments to pass laws, civil society to act for or on behalf of those most vulnerable, companies and enterprises to be held accountable and

individuals to behave and consume in a responsible manner to preserve livelihoods for future generations. This multi-stakeholder approach includes all relevant actors involved in the climate change game and its possible effects on migration, labor, health, development and citizenship. Governments continue to be one of the main duty-bearers but not the only ones that will respond to the challenges of climate change. Companies and individuals will be held equally to account for climate change according to the Climate Justice concept.

## Reference List

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- Cameron, E; Shine, T. and Bevins, W. (2013), 'Climate Justice: Equity and Justice Informing a New Climate Agreement'. *World Resources Institute and Mary Robinson Foundation – Climate Justice 2013. Working Paper No 2.*
- Center for Climate and Energy Solutions (2015). Outcomes of the UN Climate Change Conference in Paris. Conference Report.
- Griffin, D. R. (2015). *Unprecedented, Can Civilization Survive the CO<sub>2</sub> Crisis?* Clarity Press.
- Heyward, C. (2014). 'Climate Change as Cultural Injustice', *New Waves in Global Justice*. 1<sup>st</sup> edn, Palgrave Macmillan.
- Hiskes, R.P. (2008). *The Human Rights to a Green Future, Environmental Rights and Intergenerational Justice*. Cambridge University Press.
- Intergovernmental Panel on Climate Change (2014). *Climate Change 2014: Synthesis Report*.
- International Organization of Migration (2008). *Migration and Climate Change. IOM Migration Research Series No. 31*. Geneva.
- Manou D., Baldwin A, Cubie, A. Mihr, A. Thorp. T. (2017)(eds.) *Climate Change and Migration*. Routledge, Taylor & Francis Group
- Mary Robinson Foundation (2014a). *Climate Justice – Rights for Action*. <http://www.mrfcj.org/wp-content/uploads/2015/11/MRFCJ-Rights-for-Action-edition-2.pdf> Accessed 27 September 2016.
- Mary Robinson Foundation (2014b). *Climate Justice – Zero Carbon, Zero Poverty the Climate Justice Way*. Short Paper.
- Mary Robinson Foundation (2015). *Climate Justice – Principles of Climate Justice*.

- Mihr, A. (2017). 'Climate Justice, Migration and Human Rights'. *Manou et al (ed.) Climate Change and Migration*. Routledge, Taylor & Francis Group, 45-67.
- Preston, I. et al (2014), 'Climate Change and Social Justice: An Evidence Review'. *Joseph Rowntree Foundation – Centre for Sustainable Energy 2014. Research Report*.
- United Nations Office of the High Commissioner for Human Rights (2016). Human Rights and Climate Change.  
[www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx](http://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HRClimateChangeIndex.aspx). Accessed 27 September 2016.
- United Nations (2016). Goal 13: Take Urgent Action to Combat Climate Change and Its Impacts. *Sustainable Development Goals: 17 goals to transform our world*.  
[www.un.org/sustainabledevelopment/climate-change-2/](http://www.un.org/sustainabledevelopment/climate-change-2/). Accessed 27 September 2016.
- United Nations Development Programme 2007. Human Development Report 2007/2008.
- Wewerinke, M. (2014). 'The Role of the UN Human Rights Council in Addressing Climate Change'. Vol. 8 *Human Rights & International Legal Discourse* No. 10.
- Yavinsky, R. W. (2012). Women More Vulnerable Than Men to Climate Change. Population Reference Bureau.



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