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**Mapping Human Rights Obligations Relating to the Enjoyment of a
Safe, Clean, Healthy and Sustainable Environment**

Focus report on human rights and climate change

Prepared for the Independent Expert on the issue of human rights obligations relating to the
enjoyment of a safe, clean, healthy, and sustainable environment

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INTRODUCTION

In 2013-14, the UN Independent Expert on human rights and the environment oversaw a research project to map the human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. The details of the research are contained in 14 mapping reports, each of which describes the relevant statements of a particular source or set of sources. The sources include UN human rights treaties and the treaty bodies charged with overseeing them, other UN bodies and mechanisms such as the Human Rights Council and its special rapporteurs, regional human rights systems, and international environmental instruments. These reports can be found on the web page of the Independent Expert, at www.ieenvironment.org.

The mapping reports were summarised by the Independent Expert in his second annual report to the Council (A/HRC/25/53), presented in March 2014.

The present report recognises specific references to climate change in the 14 mapping reports. The summaries are presented in the same order as the 14 reports:

1. International Covenant on Economic, Social and Cultural Rights
2. International Covenant on Civil and Political Rights
3. International Convention on the Elimination of All Forms of Racial Discrimination
4. Convention on the Elimination of All Forms of Discrimination Against Women
5. Convention on the Rights of the Child
6. UN General Assembly and Human Rights Council
7. Special Procedures of the Human Rights Council
8. Rights of Indigenous Peoples
9. Global and Regional Environmental Agreements
10. Non-binding International Environmental Instruments
11. Aarhus Convention
12. Asia-Pacific, Arab and African Regional Agreements, and European Social Charter
13. Inter-American Human Rights Agreements
14. European Convention on Human Rights and European Union

For each report, the summary describes first the human rights threatened by climate change and then the human rights obligations relating to climate change, as identified by the sources covered by the report. Page references to the reports are included in the text, within brackets.

It should be underlined that the following summaries include only *specific* references to climate change by the sources reviewed. Statements by the sources relating to environmental harm generally, which are not included in these summaries, may nevertheless apply to climate change

as a cause of such harm. For such statements, it is necessary to refer to the Independent Expert's report to the Council and the 14 mapping reports.

The statement of the Independent Expert about the mapping project applies to the following summaries as well:

The Independent Expert understands that not all States have formally accepted all of these norms. While some of the statements cited are from treaties, or from tribunals that have the authority to issue decisions that bind the States subject to their jurisdiction, other statements are interpretations by experts that do not in themselves have binding effect. Despite the diversity of the sources from which they arise, however, the statements are remarkably coherent. Taken together, they provide strong evidence of converging trends towards greater uniformity and certainty in the human rights obligations relating to the environment. These trends are further supported by State practice reflected in the universal periodic review process and international environmental instruments. (A/HRC/25/53, para. 27.)

I. International Covenant on Economic, Social and Cultural Rights

A. Rights Threatened by Climate Change

i. **Right to Water:** The adverse effects of climate change have been recognised as negatively affecting enjoyment of the right to water. In its General Comment No. 15 on the right to water, the Committee on Economic, Social and Cultural Rights called on State parties to adopt comprehensive programs to ensure sufficient water for future generations by assessing the impacts of activity, such as climate change, “that may impinge upon water availability and natural-ecosystems watersheds.”

The Committee also invoked this relationship in concluding observations relating to Australia, indicating its concern regarding “the negative impact of climate change on the right to an adequate standard of living, including on the right to food and the right to water, affecting in particular indigenous peoples, in spite of the State party's recognition of the challenges imposed by climate change (art. 11).” [p.13]

ii. **Right to Adequate Food:** The Committee has also noted that climate change may adversely affect the right to food, particularly of indigenous peoples, and indicated in its General Comment No. 12 that “[e]ven where a State faces severe resource constraints, whether caused by a process of economic adjustment, economic recession, climatic conditions or other factors, measures

should be undertaken to ensure that the right to adequate food is especially fulfilled for vulnerable population groups and individuals.” [p.16]

B. Statements Relevant to Obligations

i. **Obligation to conduct EIAs:** The Committee stated in General Comment No. 15 that State parties should establish mechanisms for “assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification, and increased soil salinity, deforestation and loss of biodiversity.” [p.24]

ii. **Obligation to Mitigate the Effects of Climate Change:** The Committee has also noted that State parties have an obligation to mitigate the effects of climate change in order to safeguard the enjoyment of rights protected by the ICESCR. For instance, in its Statement on the World Food Crisis, the Committee pressed State parties to adopt “strategies to combat global climate change that do not negatively affect the right to adequate food and freedom from hunger, but rather promote sustainable agriculture, as required by article 2 of the UN Framework Convention on Climate Change.” In Concluding Observations to Australia, the Committee has encouraged Australia “to reduce its greenhouse gas emissions and to take all the necessary and adequate measures to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples.” [pp.37-38]

iii. **Obligation to Adopt Measures Safeguarding the Substantive Rights of Indigenous Peoples, including to Mitigate the Adverse Consequences of Climate Change:** The Committee stated in its Concluding Observations to Australia that State parties are required to “ensure the enjoyment of the right to food and of the right to affordable drinking water and sanitation, in particular by indigenous peoples, including through “mitigat[ing] the adverse consequences of climate change.” [pp.41-42]

iv. **Obligation to Prevent Third Party Transboundary Environmental Harm:** The Committee has stated in connection with certain rights under the ICESCR that States should take steps to prevent transboundary harm that interferes with the enjoyment of human rights in other countries, although the Committee has not applied these statements to climate change.

For example, General Comment No. 15 states that: “Steps should be taken by States parties to prevent their own citizens and companies from violating the right to water of individuals and communities in other countries. Where States parties can take steps to influence other third parties to respect the right, through legal or political means, such steps should be taken in accordance with the Charter of the United Nations and applicable international law.”

Additionally, in General Comment No. 14 on the right to health, the Committee stated that: “To comply with their international obligations in relation to article 12, States parties have to respect

the enjoyment of the right to health in other countries, and to prevent third parties from violating that right in other countries, if they are able to influence these third parties by way of legal or political means.” [p.51]

v. **Obligation Specific to the Right to Food:** In its Statement on the World Food Crisis, the Committee invoked the UN Framework Convention on Climate Change, stating: “The Committee urges State parties to address the structural causes at the national and international levels, including by . . . [i]mplementing strategies to combat global climate change that do not negatively affect the right to adequate food and freedom from hunger, but rather promote sustainable agriculture, as required by Article 2 of the United Nations Framework Convention on Climate Change.” [p.57]

II. International Covenant on Civil and Political Rights

Neither the text of the Covenant nor the Human Rights Committee (the treaty body mandated to oversee it) has addressed climate change specifically.

III. International Convention on the Elimination of All Forms of Racial Discrimination

Neither the text of the Convention nor the Committee on the Elimination of Racial Discrimination (the treaty body mandated to oversee it) has addressed climate change specifically.

IV. United Nations Convention on the Elimination of All Forms of Discrimination Against Women

A. Rights Threatened by Climate Change

i. **Right to Health:** The Committee on the Elimination of Discrimination Against Women has drawn a connection between the effects of climate change and their impacts on the enjoyment of the right to health. In its 2002 Annual Report, the Committee recommended that the then-upcoming World Summit on Sustainable Development place a priority on “developing action

plans and measures to address climate change, pollution and their adverse effects, in particular on the health of women and children.” [p.13]

B. Statements Relevant to Obligations

Neither the text of the Convention nor the Committee has addressed obligations specific to climate change.

V. United Nations Convention on the Rights of the Child

A. Rights Threatened by Climate Change

i. **Right to Children’s Health:** Recently, the Committee on the Rights of the Child recognised climate change as a threat to children’s health. In its General Comment No. 15 regarding the right of the child to health, the Committee stated, “Children’s health is affected by a variety of factors, many of which have changed during the past 20 years and are likely to continue to evolve in the future. [...] There is also a growing understanding of the impact of climate change and rapid urbanization on children’s health.” [p.36]

B. Statements Relevant to Obligations

i. **Obligation to Include Children’s Health Concerns in Climate Change Policy:** In its General Comment No. 15, the Committee “draws attention to the relevance of the environment, beyond environmental pollution, to children’s health. Environmental interventions should, inter alia, address climate change, as this is one of the biggest threats to children’s health and exacerbates health disparities. States should, therefore, put children’s health concerns at the centre of their climate change adaptation and mitigation strategies.” [p. 36]

VI. UN General Assembly and Human Rights Council

A. Rights Threatened by Climate Change

i. **Right to Adequate Food:** The General Assembly in Resolution 67/174 (2013) expressed deep concern at “the number and scale of natural disasters, diseases and pests, as well as the negative impact of climate change, and their increasing impact in recent years, which have resulted in substantial loss of life and livelihood and threatened agricultural production and food security, in

particular in developing countries.” Moreover, in Resolution 66/158 (2011) on agricultural development and food security, the General Assembly recognised the adverse effects of climate change on food security. [p.9]

ii. **Enjoyment of Rights in General:** The Human Rights Council in Resolution 7/23 (2008) identified climate change as a threat to the enjoyment of human rights. Specifically, it expressed concern “that climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.” It also noted in Resolution 7/23 that climate change-related impacts “have a range of implications, both direct and indirect, for the effective enjoyment of human rights including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination and human rights obligations related to access to safe drinking water and sanitation.” [p.16]

Human Rights Council Resolution 26/L.33 (2014)¹ similarly stated that “the adverse effects of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights, including, inter alia, the right to life, the right to adequate food, the right to the highest attainable standard of health, the right to adequate housing, the right to self-determination, the right to development and the right to safe drinking water and sanitation, and recall[ed] that in no case may a people be deprived of its own means of subsistence.”

Resolution 26/L.33 also expressed “concern that climate change has contributed to the increase of both sudden-onset natural disasters and slow-onset events, and that these events have adverse effects on the full enjoyment of all human rights.”

The 2009 report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the relationship between climate change and human rights addressed the adverse effects of climate change on specific rights, as described below. The Human Rights Council took note of the OHCHR report in its Resolutions 18/22 (2011) and 26/L.33 (2014).

iii. **Right to Life:** The 2009 OHCHR report explained that the right to life will be threatened by severe weather events such as floods, storms, and droughts, as well as by an increase in hunger and malnutrition. [p.16]

iv. **Right to Water:** The OHCHR explained that climate change will adversely affect the right to water for the more than one billion people receiving melt water by the loss of glaciers and reductions in snow cover. [p.16]

¹ The version of this Resolution cited throughout this report is a draft which has incorporated both oral and written revisions.

v. **Right to the Highest Attainable Standard of Health:** The OHCHR report described the adverse effects of climate change on the right to the highest attainable standard of health, which will be infringed by not only malnutrition and extreme weather events, but also by malaria and other diseases that thrive in warmer weather. [pp.16-17]

vi. **Right to Adequate Housing:** The OHCHR report described the adverse effects of climate change on the right to housing, which has already been compromised by the forced relocation of communities in the Arctic and low-lying island States. [p.17]

vii. **Right of Self Determination:** The OHCHR report stated that the possible inundation and disappearance of small island States threatens the right of self-determination. [p.17]

viii. **Impacts on Developing Countries:** In various resolutions, the General Assembly has linked the adverse effects of climate change to different types of human impacts, particularly in developing countries. For example, in Resolution 67/2010 (2013), it stated that persistent drought and extreme weather events, sea-level rise, coastal erosion and ocean acidification threaten food security and efforts to eradicate poverty and achieve sustainable development. [p.17]

The Human Rights Council in its Resolution 26/L.33 (2014) also recognised “the challenges of climate change to development and to the progress made towards the achievement of the Millennium Development Goals, in particular with regard to the goals on the eradication of extreme poverty and hunger, environmental sustainability and health.” It also reaffirmed that “people in developing countries, particularly in least developed countries, small island developing States and African countries, that have contributed the least to global greenhouse gas emissions, are among the most vulnerable to the adverse effects of climate change on the full and effective enjoyment of all human rights, including the right to development.”

viii. **Impacts on Venerable Groups:** Human Rights Council Resolution 26/L.33 (2014) expressed concern “that, while [the human rights] implications affect individuals and communities around the world, the adverse effects of climate change will be felt most acutely by those segments of the population that are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability.”

B. Statements Relevant to Obligations

i. **Obligation to Respect Human Rights in All Climate Change Actions:** With respect to climate change, Human Rights Council Resolutions 18/22 (2011) and 26/L.33 (2014) affirmed “that human rights obligations, standards and principles have the potential to inform and strengthen international and national policymaking in the area of climate change, promoting

policy coherence, legitimacy and sustainable outcomes.” In Resolutions 10/4 and 18/22, the Council also specified that “in no case may a people be deprived of its own means of subsistence” as a result of climate change impacts. Moreover, Resolution 18/22 and 26/L.33 also referred to the objectives of the United Nations Framework Convention on Climate Change and emphasized “that parties should, in all climate change-related actions, fully respect human rights as enunciated in the outcome of the sixteenth session of the Conference of the Parties to the Convention” (known as the Cancun Agreements).

ii. **Full and Effective International Cooperation:** Human Rights Council Resolutions 18/22 (2011) and 26/L.33 (2014) recognised the need for international cooperation to address the global nature of climate change. [p. 18] Resolution 18/22 stated that “climate change is a global problem requiring a global solution, and that effective international cooperation to enable the full, effective and sustained implementation of the United Nations Framework Convention on Climate Change in accordance with the provisions and principles of the Convention is important in order to support national efforts for the realization of human rights implicated by climate change-related impacts.”

Resolution 26/L.33 provided that “the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions.”

Resolution 26/L.33 further recognised “the need of giving due consideration in the elaboration of the Post 2015 development agenda to the role of international cooperation in relation to the special needs and particular circumstances of developing countries and to addressing the adverse impact of climate change on the full and effective realization of human rights.”

iii. **Coordinating Responses with Social and Economic Development:** Human Rights Council Resolution 26/L.33 (2014) stated that “responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty.”

iv. **Addressing the Impacts of Climate Change on Food Security:** In its Resolution 65/178 (2011), the General Assembly called for urgent international, regional and national efforts to address the impacts of climate change on food security, specifically to “increase the ability of the agricultural sector to predict, prevent and address the impacts of climate change and extreme weather events, especially floods and droughts, on agricultural production and food systems, as well as to enhance the ability of that sector to regain livelihoods and food production.” [p.19]

v. **Protecting Individuals Against Foreseeable Threats to Human Rights Related to Climate Change:** The 2009 OHCHR report states that at the national level, “States may have an obligation to protect individuals against foreseeable threats to human rights related to climate change, such as an increased risk of flooding in certain areas.” Moreover, the OHCHR report identifies awareness raising, access to information, and public participation as critical in efforts to address climate change at the national level. [pp.18-19]

vi. **Public Participation in Addressing the Impacts of Climate Change:** General Assembly Resolution 67/210 (2013) recognises the importance of public participation in addressing the impacts of climate change. It refers to “the need to engage a broad range of stakeholders at the global, regional, national and local levels, including national, subnational and local governments, private businesses and civil society, and including youth and persons with disabilities, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change.” [pp.19-20]

vii. **Obligations to Developing Countries.** Human Rights Council Resolution 26/L.33 (2014) provided that “developing countries, particularly least developed countries, small island developing States and African countries ... should be provided with predictable, sustainable and adequate support to meet the costs of adaptation to and mitigation of those adverse effects.”

Resolution 26/L.33 further emphasized “the urgent importance of continuing to address, as they relate to States’ human rights obligations, the adverse consequences of climate change for all, particularly in developing countries and its people whose situation is most vulnerable to climate change, especially those in a situation of extreme poverty, and deteriorating livelihood conditions.”

It similarly called upon States to “continue to enhance international dialogue and cooperation in relation to the adverse impacts of climate change on the enjoyment of human rights, including the right to development, particularly in developing countries, especially least developed countries, small island developing States and African countries, including through dialogue and measures, such as the implementation of practical steps to promote and facilitate capacity-building, financial resources and technology transfer.”

vii. **Cooperation international organizations:** Human Rights Council Resolution 26/L.33 (2014) stressed the “importance of fostering dialogue and cooperation between relevant international organizations and stakeholders.”

viii. **Special Procedures:** Human Rights Council Resolution 26/L.33 (2014) also “encourages relevant special procedures mandate holders to give consideration to the issue of climate change and human rights within their respective mandates.”

VII. Special Procedures

Many Special Rapporteurs and Independent Experts appointed by the Human Rights Council have addressed climate change. The following discussion recognises how Special Procedures have identified threats to human rights from climate change, as well as obligations on States to address climate change impacts. For ease of reference, the discussion is organized by how each mandate has addressed these issues.

A. Rights Threatened by Climate Change

i. Right to Life and Physical Integrity

Independent Expert on Extreme Poverty: The Independent Expert (later Special Rapporteur) on extreme poverty, Magdalena Sepúlveda Carmona, explained that environmental degradation disproportionately affects people living in extreme poverty, and that extreme weather events such as storms, droughts and cyclones, including those resulting from climate change, “pose real and direct threats to their ability to live their lives in dignity.”² She stated, “In most cases, they rely on natural resources for their basic means of survival and are less able to prepare for, or adapt to, climate change and its effects.”³ With respect to climate change, she noted that “[e]xtreme weather events caused by climate change can create vicious circles by increasingly forcing persons living in extreme poverty to over-exploit natural resources as a coping mechanism to ensure survival.”⁴

ii. Right to an Adequate Standard of Living, Including the Rights to Adequate Housing, Adequate Food, and Safe and Clean Drinking Water and Sanitation

Special Rapporteur on Internally Displaced Persons: The Special Rapporteur on internally displaced persons, Chaloka Beyani, discussed the impact climate change has on the right to an adequate standard of living and other rights, such as the right to water and housing. Beyani stated that in the Maldives, “for example, climate change and other factors impacting low-lying island environments are already affecting the rights of those residents, including the right to

² *Report of the Independent Expert on extreme poverty and human rights*, 9 August 2010, U.N. Doc. A/65/259, ¶ 37.

³ *Ibid.*

⁴ *Ibid.* ¶ 38.

housing, safe water, health, and an adequate standard of living.”⁵ Beyani also highlighted that “[t]he erosion of livelihoods, in part provoked by climate change, is considered a key push factor for the increase in rural-to-urban migration, most of which will be to urban slums and informal settlements offering precarious living conditions.”⁶

Special Rapporteur on the Right to Water and Sanitation: The Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, has endorsed the contents of a position paper on climate change and the human rights to water and sanitation.⁷ This study found that climate change is an obstacle to the realization of the human rights to water and sanitation and that climate change has a number of deleterious effects on humans and their environmental surroundings because of its impact on water resources. According to the paper:

Water is a key medium through which climate change impacts upon human populations and ecosystems, particularly due to predicted changes in water quality and quantity. The impacts of climate change need to be seen in light of its direct effects on water resources as well as its indirect influence on other external drivers of change, in particular increasing population pressures and changing consumption patterns.⁸

The paper also asserted that it has become clear that “climate change will increase water stress in already dry areas, and will undermine water quality in areas flooded either by rain or by sea water. Areas particularly sensitive to climate change are coastal zones and cities, estuaries and deltas, watersheds, mountains, small islands and arid regions.”⁹ Moreover, the paper predicted that “the overall availability of water will be seriously impacted by climate change mainly through drought, the decline in water supplies stored in glaciers and snow cover, and flooding.”¹⁰

⁵ *Report of the Special Rapporteur on internally displaced persons, Chaloka Beyani*, 30 January 2012, U.N. Doc. A/HRC/19/54/Add.1, ¶ 67.

⁶ *Protection of and assistance to internally displaced persons*, 9 August 2011, U.N. Doc. A/66/285, ¶ 66.

⁷ *Climate Change and the Human Rights to Water and Sanitation, Position Paper* (undated), available at the web page of the Special Rapporteur, http://www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf.

⁸ *Ibid.* p. 2.

⁹ *Ibid.* p. 16.

¹⁰ *Ibid.* p. 18.

In already arid areas, climate models predict a major decrease in water availability due to climate change.¹¹

Furthermore, the paper tied climate change to increasing rates of water pollution and salinization, and this decline in water quality will reduce the availability of potable drinking water. The paper specified that “[i]ncreasing water temperatures, higher or lower groundwater levels, floods and droughts raise the threat of heightened micro-organisms, chemical substances and radiological hazards in drinking water,” and that “[f]loods and droughts will exacerbate many forms of water pollution such as sediments, nutrients, organic carbon, pathogens and pesticides, and may distribute human excreta and its attendant health risks across entire neighbourhoods and communities.”¹² Moreover, sea-level rise will lead to increased salinization of groundwater.¹³

In general, although the paper acknowledged that meeting a human right to water and sanitation is a function of power, poverty, and inequality, and a failure of governments to prioritize water allocation, it nevertheless concluded that “the goal of improved safe access to drinking water will certainly be much harder to achieve in regions where runoff and groundwater recharge decrease as a result of climate change.”¹⁴

Special Rapporteur on Adequate Housing: The Special Rapporteur on adequate housing, Raquel Rolnik, has linked climate change with many human rights impacts.¹⁵ According to the Special Rapporteur, climate change-induced extreme weather events pose risks to the right to adequate housing in urban settlements, smaller settlements, and small islands.¹⁶ The Special Rapporteur cautioned that the implications of climate change will be severe, particularly for low-income groups and those living in countries that lack the resources, infrastructure, and capacity necessary to protect their populations.¹⁷

Rolnik also noted the impacts of climate change on groups in vulnerable situations, such as women and children and the poor. Rolnik explained that poor communities can be especially

¹¹ *Ibid.*

¹² *Ibid.* pp. 20-21.

¹³ *Ibid.* p. 21.

¹⁴ *Ibid.* pp. 20-21.

¹⁵ *See generally Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, 6 August 2009, U.N. Doc. A/64/25.

¹⁶ *Ibid.* ¶¶ 13, 30-32.

¹⁷ *Ibid.* ¶ 65.

vulnerable to climate change-related impacts, “in particular those concentrated in unplanned and unserviced settlements within urban areas, which tend to be built on hazardous sites and to be susceptible to a number of climate change-related disasters.”¹⁸ She explained that “[l]iving in a situation of poverty and exclusion, they lack adequate resources to protect themselves. Climate change-related effects aggravate existing risks and vulnerabilities.”¹⁹

For example, she explained that slums are usually located in the most hazardous areas within cities and lack the resources necessary to have the basic infrastructure and services required to protect dwellers from environmental disasters.²⁰ Thus, Rolnik noted that among the urban dwellers, those that are impoverished are at the greatest risk from the direct and indirect impacts of climate change.²¹

She also noted that the decrease in water supply due to climate change will have a disproportionate impact on woman and girls. She explained:

Increased water stress results in decreased access to water and sanitation and as water sources dry out, people are forced to move further in search of water for drinking, cooking and hygiene. This has a particular impact on women and girls, who are usually responsible for fetching water, with their health and access to education often suffering as a result.²²

Rolnik also explained that increased water stress caused by extreme weather events results in decreased access to water and sanitation.²³ As water sources dry out, people are forced to travel further distances in search of water for drinking, cooking, and hygiene.²⁴ Rolnik noted that this has a much greater impact on women and girls because they are usually responsible for fetching water, with their health and access to education suffering as a result.²⁵

¹⁸ *Ibid.* ¶ 16.

¹⁹ *Ibid.*

²⁰ *Ibid.* ¶¶ 18, 67.

²¹ *Ibid.* ¶¶ 20, 67.

²² *Ibid.* ¶ 15.

²³ *Ibid.* ¶ 14.

²⁴ *Ibid.* ¶ 15.

²⁵ *Ibid.*

When climate change-induced disasters force resettlement, the Special Rapporteur warned that women encounter greater responsibilities and stresses, as they “generally assume the responsibility for child and domestic care, such as getting food, fuel and water, which can become more onerous in resettlements situations.”²⁶ Additionally, women also “encounter a number of problems related to lack of tenure and property rights and they are frequently ignored in the process of reconstruction and rebuilding of livelihoods.”²⁷

Rolnik also noted that children are one of the groups most vulnerable to climate change, particularly as it impacts poor urban populations.²⁸ She explained that “[c]hildren may be removed from school in order to work and help to increase the income of their families and the supply of food and water” and that schools are often used as an emergency lodging after natural disasters, as she observed in Senegal.²⁹ She highlighted that climate change related effects could also exacerbate the exposure of children to undernutrition and increase their vulnerability to a number of diseases and illnesses, such as malaria.³⁰ She further indicated that the effects and pressures of climate change-induced disasters may increase gender inequalities and intensify the common constraints many children already suffer due to poverty.³¹

Rolnik cautioned that climate change induced drought will decrease water supply in urban systems.³² Additionally, she explained that disturbances in marine ecosystems and fisheries, as well as the deterioration of farmlands due to salt water flooding, will jeopardize the access to safe drinking water and food.³³ The Special Rapporteur also warned that glacier melt will affect water storage, resulting in scarcity of water supply.³⁴

Moreover, she noted that climate change induced flooding and landslides, caused by increases in rainfall intensity, sea-level rise and storm surges in coastal areas, can “overwhelm urban drainage systems and result in floods” and “overburden sanitation systems and cause

²⁶ *Ibid.* ¶ 59.

²⁷ *Ibid.*

²⁸ *Ibid.* ¶ 21.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.* ¶ 15.

³³ *Ibid.* ¶ 27.

³⁴ *Ibid.* ¶¶ 9, 15, 25.

contamination of drinking water.”³⁵ Moreover, she noted that “when shelters are built in areas susceptible to hazards, such as in floodplains on the banks of rivers or on slopes that pose the risk of erosion and mudslides during heavy rains, the consequences can be devastating.”³⁶

Rolnik also attributed climate change impacts to an increase in migration and substantial human mobility.³⁷ She explained that as a consequence of environmental degradation due to climate change, depletion of natural resources and natural disasters, many people around the world find their lives and health threatened, their houses and land destroyed and their sources of livelihood taken away.³⁸ She stated: “Affected populations are then forced to migrate to other regions within their countries or to other countries. Migrants may leave voluntarily in search of better lives or may be forcibly evacuated during disasters.”³⁹ The Special Rapporteur pointed out that substantial migration connected to climate change can cause economic strain in receiving countries.⁴⁰ Migration will affect urban development by increasing pressure on infrastructure and services.⁴¹ Rapid and unplanned urbanization by migrants has serious consequences for urban welfare and service provision.⁴²

In addition, Special Rapporteur Rolnik recognised that the right to food is greatly affected by the impacts of climate change-induced disasters. For example, she noted that the inhabitants of Tlaxcala, an area dependent on rain-fed agriculture, complained of shifting rainfall periods, which generated uncertainty and a decline in crop yields and incomes.”⁴³ She also warned that rising sea levels will affect the ability of many small islands to grow vegetables and plants.⁴⁴ Additionally, she cautioned that disturbances in marine ecosystems and fisheries as well as the

³⁵ *Ibid.* ¶ 14.

³⁶ *Ibid.*

³⁷ *Ibid.* ¶ 22.

³⁸ *Report on the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, 9 August 2010, U.N. Doc. A/65/261, ¶ 7.

³⁹ *Ibid.*; see also *Report of the Special Rapporteur on adequate housing*, 6 August 2009, U.N. Doc. A/64/25, ¶¶ 23-28.

⁴⁰ *Ibid.* ¶ 28.

⁴¹ *Ibid.* ¶ 29.

⁴² *Ibid.*

⁴³ *Ibid.* ¶ 26.

⁴⁴ *Ibid.* ¶ 33.

deterioration of farmlands due to salt water flooding will jeopardize the access of population to food.⁴⁵

Rolnik further stressed that small island communities and low-lying coastal areas are particularly vulnerable to climate change and related problems, such as rising sea levels and other natural disasters associated with changes in temperature and rainfall patterns.⁴⁶ For example, the Special Rapporteur in her mission to the Maldives cautioned that climate change will significantly impact the enjoyment of many human rights related to protecting the right to adequate housing for Maldivians, including by: the loss of or contamination of freshwater sources; the total or partial destruction of houses and properties because of a rise in the sea level and natural disasters such as floods and cyclones; and the loss of livelihoods. Since many economic activities depend on the coastal ecosystem, climate change will affect communities' livelihoods, including through loss of land, and environmental changes affecting fisheries and agriculture and other livelihood activities.⁴⁷ She noted that in some cases, inhabitants of small island states have already begun to relocate due to the impacts of climate change. For example, in the case of Tuvalu, she stated: "Frequent saltwater flooding, accelerated coastal erosion and increasing difficulty growing vegetables and plants are day-to-day challenges. The people of Tuvalu have reluctantly accepted the idea of relocation and have started moving to New Zealand, under the terms of a negotiated migration scheme".⁴⁸

Special Rapporteur on the Right to Food: The Special Rapporteur on the right to food, Olivier de Schutter, has reviewed various impacts of climate change on the enjoyment of the right to food. For example, he noted that "climate change, which translates in more frequent and extreme weather events, such as droughts and floods and less predictable rainfall, is already having a severe impact on the ability of certain regions and communities to feed themselves."⁴⁹

⁴⁵ *Ibid.* ¶ 27.

⁴⁶ *Addendum to the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Mission to Maldives*, 11 January 2010, U.N. Doc. A/HRC/13/20/Add.3, ¶ 12; *Report of the Special Rapporteur on adequate housing*, 6 August 2009, U.N. Doc. A/64/25, ¶¶ 30-32.

⁴⁷ *Addendum to the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Mission to Maldives*, 11 January 2010, U.N. Doc. A/HRC/13/20/Add.3, ¶ 14.

⁴⁸ *Report of the Special Rapporteur on adequate housing*, 6 August 2009 U.N. Doc. A/64/25, ¶ 33 (internal citation omitted).

⁴⁹ *Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter*, 20 December 2010, U.N. Doc. A/HRC/16/49, ¶ 9.

He warned that an estimated 600 million people could be at a risk of hunger by 2080 as a direct result of climate change.⁵⁰

De Schutter explained that climate change will have an impact on agricultural production. The change in climate is predicted to prevent entire regions from maintaining their levels of agricultural production due to rainfall decline.⁵¹ He further noted that “[l]ess fresh water will be available for agricultural production, and the rise in sea level is already causing the salinization of water in certain coastal areas, making water sources improper for irrigation purposes.”⁵² De Schutter recognised that “agricultural production is expected to decline worldwide at least 3% by the 2080s, and could decline "up to 16% if the anticipated carbon fertilization effects (incorporation of carbon dioxide in the process of photosynthesis) fail to materialize.”⁵³ Sub-Saharan Africa will be particularly impacted. According to the Special Rapporteur, in “Sub-Saharan Africa, arid and semi-arid areas are projected to increase by 60 million to 90 million hectares, while in Southern Africa, it is estimated that yields from rain-fed agriculture could be reduced by up to 50 per cent between 2000 and 2020.”⁵⁴ He further cautioned that water shortages represent a threat “for agriculture, particularly in sub-Saharan Africa, Eastern Asia and South Asia, where climate change will affect rain, increase the frequency of droughts, raise average temperatures, and threaten the availability of fresh water for farming.”⁵⁵

The Special Rapporteur also noted the impacts from climate change on fisheries. He explained that the many direct threats to the sustainability of fish production systems are magnified by the

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*; see also *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Large-scale land acquisitions and leases: A set of minimum principles and measures to address the human rights challenge*, 28 December 2009, U.N. Doc. A/HRC/13/33/Add.2, ¶ 21 (“Assuming a 4.4° C increase in temperature and a 2.9 per cent increase in precipitation, it has been estimated that by 2080, global agricultural output potential is likely to decrease by about 6 per cent (or 16 per cent without carbon fertilization, the impacts of which are disputed). The decline will vary between 10 and 25 per cent across regions, but it is projected that by 2080, agricultural output potential may be reduced by up to 60 per cent for several African countries, and on average 16 to 27 per cent for others in Africa, dependent upon the effect of carbon fertilization” (internal citation omitted)).

⁵⁴ *Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter*, 20 December 2010, U.N. Doc. A/HRC/16/49, ¶ 9.

⁵⁵ *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Building resilience: a human rights framework for world food and nutrition security*, 8 September 2008, U.N. Doc. A/HRC/9/23, Annex II, ¶ 11.

impacts of climate change.⁵⁶ The rise in ocean temperatures threatens many calcifying organisms, including mollusks, plankton, and the coral reefs.⁵⁷ This reduces dependent fish populations and is exacerbated by unsustainable fishing practices.⁵⁸ Warmer sea temperatures may also lead to increased outbreaks of algal blooms, which can have a devastating impact on fish populations.⁵⁹ As de Schutter explained, warming oceans cause marine species to move to “colder waters, which includes shifting their latitudinal range or moving to greater depths. Some fish will gradually move away from rich tropical waters, resulting in localized extinctions and the invasion of some species into waters where they were previously not found.”⁶⁰

De Schutter also mentioned the potential impacts of climate change during some country visits. For example, in his visit to Cameroon, he observed that coastal regions and the Sahel regions in the North are particularly hard hit by climate change.⁶¹ In his report on Canada, he noted impacts of climate change on migratory patterns of animals and on the mobility of those hunting them, which had an effect on access to traditional food supplies of indigenous populations.⁶²

In his report on China, he noted that climate change may cause agricultural productivity to drop 5-10% by 2030 (absent any mitigation actions), which would principally affect wheat, rice, and maize.⁶³ He stated:

Already today, droughts affect between 200 million and 600 million mu of farmland in China every year. Indeed, while the Special Rapporteur was on mission in China, an unprecedented drought developed, affecting 35.1 per cent of wheat crops (to be harvested in June 2011) on a surface of 96.11 million mu (6.4 million hectares). This represents 21.7 per cent of total farmland in the eight provinces concerned, including Shandong,

⁵⁶ *Interim report of the Special Rapporteur on the right to food*, August 2012, U.N. Doc. A/67/268, ¶ 16.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to Cameroon*, 18 December 2012, U.N. Doc. A/HRC/22/50/Add.2, ¶ 54.

⁶² *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to Canada*, 24 December 2012, U.N. Doc. A/HRC/22/50/Add., ¶ 64.

⁶³ *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to China*, 20 January 2012, U.N. Doc. A/HRC/19/59/Add.1, ¶ 24.

Jiangsu, Henan, Hebei and Shanxi, which together account for more than 80 per cent of the wheat production of China.⁶⁴

In his report on Syria, the Special Rapporteur discussed the severe droughts that have resulted from climate changes in the region.⁶⁵ He stated that the “effects of climate change in the country are already evident from the cycles of drought, which have shortened from a cycle of 55 years in the past to the current cycle of seven or eight years.”⁶⁶ Syria suffered four consecutive droughts between 2006 and 2011, which have caused significant losses of crops in the drought zones.⁶⁷ The crop failures led to difficulties in feeding animals, which led farmers to, among other things, slaughter their livestock.⁶⁸ The inability for farmers to sustain their livelihood from crops and livestock led to various human rights impacts. The Special Rapporteur stated:

The impact of successive droughts has been dramatic for both small-scale farmers and herders. In the affected regions, the income of these groups dropped by as much as 90 per cent. Many families were forced to reduce food intake: 80 per cent of those affected were reported to live on bread and sugared tea. Families sold productive assets, reducing their ability to restore their livelihoods in the future. Children were removed from schools because education became unaffordable and because their work was needed by the family as a source of revenue.⁶⁹

iii. Right to the Highest Attainable Standard of Physical and Mental Health

Special Rapporteur on the Right to Health: The Special Rapporteur on the right to health, Anand Grover, has linked the impacts from climate change to the right to health. He stated, “Those living in poverty are disproportionately affected by the adverse effects of global warming. Not only has global warming led to a decline in dependable access to water, it has also led to a disruption in natural ecosystems.”⁷⁰ He added, “Warmer and wetter conditions resulting

⁶⁴ *Ibid.*

⁶⁵ See *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Addendum, Mission to the Syrian Arab Republic*, 27 January 2011, U.N. Doc. A/HRC/16/49/Add.2, ¶ 21.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.* ¶ 11.

⁶⁸ *Ibid.* ¶ 12.

⁶⁹ *Ibid.* ¶ 13.

⁷⁰ *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 8 August 2007, U.N. Doc. A/62/214, ¶ 100.

from climate change are increasing the range and season of vectors, such as mosquitoes and tsetse flies, which spread diseases such as malaria, dengue and yellow fever, and encephalitis.”⁷¹

Grover also stated that increased flooding and droughts from climate change also pose a threat to the right to health. Grover explained that:

As clean water sources evaporate, people resort to more polluted alternatives that may lead to epidemics of water-borne diseases. Likewise, floods not only increase the risk of drowning and destroying crops, they also spread disease by extending the range of vectors and by washing agricultural pollutants into drinking water supplies.⁷²

Grover noted that despite these threats to the right to health, the international community has not confronted the threats posed by global warming, and its failure to do so is endangering the lives of millions of people.⁷³

iv. Rights of Migrants

Special Rapporteur on the human rights of migrants: The Special Rapporteur on the human rights of migrants, François Crépeau (2011-present), identified various impacts from climate change on migrant workers. He stated “that the effects of climate change will likely play a significant and increasingly determinative role in international migration.”⁷⁴ In particular, he explained that climate change will result in an increased frequency and intensity of extreme weather events (e.g., tropical storms, floods, heat waves) and the gradual processes of environmental degradation (e.g., desertification and soil and coastal erosion) resulting from climate change.⁷⁵ Accordingly, “Those effects of climate change and their adverse consequences for livelihoods, public health, food security and water availability will have a major impact on human mobility, as one natural response will be to migrate.”⁷⁶ However, Crépeau cautioned that understanding the true impact of climate change on migration is complex and that “the question of identifying those who have migrated as a result of climate change might be a challenging, if

⁷¹ *Ibid.*

⁷² *Ibid.* ¶ 101.

⁷³ *Ibid.* ¶ 102.

⁷⁴ *Report of the Special Rapporteur on the human rights of migrants to the General Assembly*, 13 August 2012, U.N. Doc. A/67/299, ¶ 17.

⁷⁵ *Ibid.* ¶ 20.

⁷⁶ *Ibid.*

not impossible, task: the impacts of climate change often contribute to a cluster of causes that lead to migration.”⁷⁷ Moreover, adding to this difficult task is the fact that climate change may induce a range of migration patterns causing future predictions on the impacts of climate change on migrations patters to “remain problematic.”⁷⁸ As a result, Crépeau noted, “the success, or lack thereof, of future mitigation and adaptation strategies, including the development of new technologies which may or may not ameliorate the situation of those most affected by the effects of climate change, are impossible to know.”⁷⁹

B. Statements Relevant to Obligations

Special Rapporteur on the Right to Health: The then Special Rapporteur on the right to health, Paul Hunt, called on the “Human Rights Council to urgently study the impact of climate change on human rights generally and the right to the highest attainable standard of health in particular.”⁸⁰

Special Rapporteur on Adequate Housing: Special Rapporteur Rolnik recommended several actions for States to reduce the negative effects of climate change.

Rolnik stressed that any effective response to the inevitable effects of climate change will require cooperation at the international level.⁸¹ She stated:

This is a necessary response to the disproportionate distribution of the causes and effects of climate change. It is also consistent with the long-standing obligations concerning international assistance and cooperation emphasized in the International Covenant on Economic, Social and Cultural Rights (article 2.1) and Articles 55 and 56 of the Charter of the United Nations.⁸²

She explained that “[s]ome affected regions already face extreme levels of vulnerability and are not able to confront climate change impacts within their existing resources; so they therefore

⁷⁷ *Ibid.* ¶ 32.

⁷⁸ *Ibid.* ¶ 33.

⁷⁹ *Ibid.*

⁸⁰ *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 8 August 2007, U.N. Doc. A/62/214, ¶ 107(j).

⁸¹ *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*, 6 August 2009, U.N. Doc. A/64/25, ¶¶ 39, 72.

⁸² *Ibid.* ¶ 39.

depend upon international support for adaptation.”⁸³ She added, “Given the global nature of the threat of climate change, internationally coordinated action to assume collective stewardship of the global climate is particularly critical.”⁸⁴

She stated that in order for the international community to effectively assist countries and groups of people particularly vulnerable to the effects of climate change in adaptation strategies, assistance should come from new resources, distinct from funds earmarked for regular development assistance.⁸⁵

Rolnik stated that “States must uphold their human rights obligations in all areas of action, including with regard to mitigation and adaptation projects and measures. They should also ensure that measures intended to protect people from the effects of climate change do not result in the unintended violation of other human rights.”⁸⁶ For example, she explained that “without adequate human rights safeguards, mitigation measures related to the development of alternative sources of energy, such as hydroelectric dams, may result in human rights violations.”⁸⁷

Rolnik stated, “Human rights standards require all countries to seek to reduce their harmful emissions to the global atmosphere, with a view to reducing their negative effect on the enjoyment of human rights.”⁸⁸ Referring to the United Nations Framework Convention on Climate Change “equity principle,” she stated that developed countries must lead in reducing emission levels “and support developing countries in pursuing low-carbon development paths”.⁸⁹

Rolnik stated that emissions reductions “must be sufficient to adequately stabilize the Earth’s climate and avoid contributing to further challenges to the enjoyment of human rights, which will otherwise follow.”⁹⁰ She noted that in order to avoid dangerous climate change, global temperature increases must be kept under 2°C (above pre-industrial levels).⁹¹ She stated that this will require global greenhouse gas emissions to peak before 2015 and to be reduced to

⁸³ *Ibid.* ¶ 72.

⁸⁴ *Ibid.* ¶ 39.

⁸⁵ *Ibid.* ¶ 40.

⁸⁶ *Ibid.* ¶ 71; *see also* ¶ 47.

⁸⁷ *Ibid.* ¶ 47.

⁸⁸ *Ibid.* ¶ 45; *also* ¶¶ 44, 70.

⁸⁹ *Ibid.* ¶¶ 45, 70.

⁹⁰ *Ibid.* ¶ 44.

⁹¹ *Ibid.*

approximately 50 per cent of the current level by the year 2050.⁹² States must work towards reducing global greenhouse gas emissions before 2015 and towards reducing the current level of emissions by 50 per cent by the year 2050.⁹³

Nationally, she explained that developing countries, in the context of mitigation, have an obligation to create development plans that take into account the urgent need to refrain from contributing further to emissions levels that cause climate change.⁹⁴ This requires the design of economic development strategies that will avoid reliance on fossil fuel to power national growth.⁹⁵ Rolnik stated, “Mitigation strategies in developed countries include the mobilization of renewable, decentralized energy devices and technologies.”⁹⁶ For example:

New building standards have been adopted to reduce the need for artificial cooling and heating and to promote the concept of energy-plus housing, which refers to houses that have the capacity not only to provide energy for their own consumption but also to generate a surplus that can be used for other purposes.⁹⁷

According to Rolnik, human rights “mandates” also require the participation of groups that stand to be affected in the design and implementation of mitigation and adaption projects.⁹⁸ She explained that:

Informed and effective participation, in turn, requires that information about the mitigation targets and decisions related to those goals are managed transparently. The principle of participation in the context of mitigation initiatives should be implemented to ensure that those who stand to be most directly affected have a say in its design and implementation, which could

⁹² *Ibid.* ¶ 42, Intergovernmental Panel on Climate Change, *Climate Change 2007: Mitigation of Climate Change*, contribution of Working Group III to the fourth assessment report of the Panel (Cambridge, United Kingdom, Cambridge University Press, 2007), p. 173.

⁹³ *Ibid.*

⁹⁴ *Ibid.* ¶46.

⁹⁵ *Ibid.*

⁹⁶ *Ibid.* ¶ 48.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.* ¶¶ 50, 73.

help anticipate, and thus avert, new rights violations that could result from the measure under discussion.⁹⁹

She also stressed the need for remedy related to climate change impacts, noting that “[h]uman rights standards would also require the existence of institutional forms of redress for grievances, compensation in response to inevitable damages and an evaluation of the distributional impacts of projects and effects.”¹⁰⁰

Rolnik also discussed adaptation measures, and particularly those related to the protection of vulnerable groups. She stated, “Climate change adaptation efforts should give priority to the needs of the most vulnerable and start by identifying the measures to be introduced for their protection.”¹⁰¹ She explained that a human rights approach “has much to offer towards adaptation to climate change and reduction of the risks posed by natural disasters.”¹⁰²

For example, she noted that States can implement projects such as risk assessments in urban planning, rural development projects and housing design, to strengthen the resilience and capacity of the most vulnerable groups to adapt to climate change.¹⁰³ Rolnik stated that adaptation measures to climate change need to include an assessment of the areas most at risk and the particularly vulnerable groups within the population.¹⁰⁴ She noted that normally, the most effective adaptation is establishing necessary infrastructure, such as by improving building quality and providing infrastructure and services, that may prevent extreme weather events from becoming disasters.¹⁰⁵ Moreover, she noted that warning information must be communicated to all neighbourhoods at risk in order to allow dwellers to seek protection and to take risk reduction actions.¹⁰⁶ She also recommended that “access to affordable and well-located land for the urban poor is essential in order to avoid further unplanned settlement expansions or settling the poor far

⁹⁹ *Ibid.* ¶ 50; *see also* ¶ 63 (“The informed participation of people in the development of national — and local-level responses aimed at adapting to the effects of climate change requires efforts to build the capacity of national populations to take part in such decisions through public awareness and mobilization”).

¹⁰⁰ *Ibid.* ¶ 50.

¹⁰¹ *Ibid.* ¶ 74.

¹⁰² *Ibid.* ¶ 51.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.* ¶ 53.

away from income-earning or human development opportunities.”¹⁰⁷ However, Rolnik also recognised that such adaptation measures may be constrained by a lack of funding and capacity.¹⁰⁸

In addition, Rolnik touched on the need for the State to ensure adequate resettlement for those who are temporarily displaced by climate-change related disasters.¹⁰⁹ Rolnik stated, “In such cases, temporary relocation must last only as long as absolutely necessary and all displaced persons should have the right to return to their homes without discrimination.”¹¹⁰

Rolnik also discussed human rights obligations and good practices related to climate change during her visit to the Maldives.¹¹¹ For example, she noted her concern that some engineering projects geared towards climate change adaptation have been carried out without proper environmental assessment.¹¹² She also noted that soft engineering solutions, like the rehabilitation of mangroves or other natural barriers to flooding, can, in many cases, be sustainable and make islands more resilient to sea movements, without the need for costly and heavy building works.¹¹³ She recommended that any adaptation programme should give priority to eco-friendly solutions, and the impact of hard engineering solutions should be carefully assessed.¹¹⁴ Rolnik also stressed the responsibility of the international community to support adaptation strategies in Maldives.¹¹⁵ In this regard, she put forth that internationally funded studies, internal capacity building, and innovative approaches are required to allow the design of climate change adaptation programs and projects.¹¹⁶

¹⁰⁷ *Ibid.* ¶ 74.

¹⁰⁸ *Ibid.* ¶ 52.

¹⁰⁹ *Ibid.* ¶ 55.

¹¹⁰ *Ibid.*

¹¹¹ See *Addendum to the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, Mission to Maldives*, 11 January 2010, U.N. Doc. A/HRC/13/20/Add.3.

¹¹² *Ibid.* ¶ 16.

¹¹³ *Ibid.*

¹¹⁴ *Ibid.* ¶ 69.

¹¹⁵ *Ibid.* ¶ 68

¹¹⁶ *Preliminary note on the mission to Maldives*, 3 March 2009, U.N. Doc. A/HRC/10/7/Add.4, ¶ 11.

Rolnik expressed concern “that Maldives is becoming more and more dependent on carbon; patterns of consumption are increasing and the importation of goods, including the movement of all construction materials, is heavily dependent on transport by boat or by air.”¹¹⁷

Special Rapporteur on the human rights of migrants: Special Rapporteur Crépeau recommended several obligations and good practices for States to address the impacts of climate change on migrants. As a preliminary matter, he explained that in order to better understand the nature of duties on governments, “given the multiplicity of locales which are affected by the issue, it is also useful to distinguish between the situation of States concerned by internal climate-change-induced migration, States of origin and States of destination of international climate-change-induced migration, and all States.”¹¹⁸

He recommended that when assessing and planning programmes for mitigation and adaptation measures to cope with climate change, “States must identify the priority vulnerable populations who are susceptible to migrate internally or internationally for causes at least partly related to climate change, as well as those who should migrate but are not able to do so, and identify their specific needs.”¹¹⁹ However, the Special Rapporteur reminded States that:

determining who will be affected by climate change and compelled to migrate cannot be ascertained in isolation. Attention must be paid to the full circumstances of individuals, groups and communities affected, including the political dimension. This must include an examination, based on a human rights approach, of why and how certain persons may be more vulnerable to climate change, as well as an examination of their effective access to different coping mechanisms through mitigation and adaptation strategies.¹²⁰

Crépeau further advised that “States should support civil society organizations that give a voice to such vulnerable populations, including migrants or potential migrants, with a view to ensuring their meaningful participation in all the deliberations regarding their future as citizens and/or migrants.”¹²¹

¹¹⁷ *Ibid.* ¶ 19.

¹¹⁸ *Report of the Special Rapporteur on the human rights of migrants to the General Assembly*, 13 August 2012, U.N. Doc. A/67/299, ¶ 73.

¹¹⁹ *Ibid.* ¶ 93(c).

¹²⁰ *Ibid.* ¶ 39.

¹²¹ *Ibid.* ¶ 93(d).

The Special Rapporteur also recommended that States should “devise and implement local and national migration policies and strategies to facilitate internal climate-change-induced migration, where needed, including through building urban infrastructure that is sustainable, flexible and inclusive in order to accommodate internal migrants.”¹²² He explained that such policies and strategies should fully respect domestic laws and international human rights law obligations, including ensuring the political participation of vulnerable populations, non-discrimination of climate-change-induced migrants, and a means of redress against human rights violations.¹²³ Because climate-change-induced migrants are more vulnerable because of a lack of social structure, possible linguistic disadvantage, and health fragility due to the displacement, the “specific needs of climate-change-induced migrants should be recognized and dealt with through specific programmes. Furthermore, States must take specific measures to allow arriving climate-change-induced migrants to best adapt to the community of destination.”¹²⁴

Although States cannot prevent their population from moving to another State, the Special Rapporteur noted the obligation on “States [of origin] to provide necessary education and training for future migrants to be able to adapt to a new society.”¹²⁵ In particular, he explained that “States of origin may engage in bilateral policies of circular migration, allowing individuals to get training abroad and thus facilitating the migratory process. Yet, States of origin should at no time force individuals to leave their country, but should strive to allow in situ adaptation as long as possible.”¹²⁶

With respect to States of destination, the Special Rapporteur stated that such States have the “obligation not to discriminate but to engage in specific policies to ensure the real equality of climate-change-induced migrants with other individuals within their jurisdiction.”¹²⁷

Crépeau noted that States should also undertake various steps to address regional migration. This includes that States should devise and implement regional migration policies and strategies to facilitate international climate-change-induced migration, such as through the development of regional migration agreements.¹²⁸ All States concerned in the region should elaborate such

¹²² *Ibid.* ¶ 93(e).

¹²³ *Ibid.* ¶¶ 74, 93(e).

¹²⁴ *Ibid.* ¶ 74.

¹²⁵ *Ibid.* ¶ 75.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.* ¶ 76.

¹²⁸ *Ibid.* ¶ 93(f).

policies and strategies, with the support and assistance of donor States, regional intergovernmental organizations, international organizations, international financial institutions, international NGOs and civil society organizations.¹²⁹ Such policies and strategies should fully respect the applicable international and regional human rights frameworks, including “appropriate human rights guarantees for all migrants, the political participation of the vulnerable populations concerned in all decisions regarding their migration, as well as means of redress available to all migrants against human rights violations.”¹³⁰

The Special Rapporteur also emphasized the need for international cooperation in addressing the impacts on migration from climate change. In this regard, he observed that all States have the international responsibility to protect the human rights of foreign populations whose State is unable to do so and “respecting the basic human rights of climate-change-induced migrants should be considered as a basic tenet of international cooperation” as defined by the United Nations Charter.¹³¹ With respect to data collection, he recommended that:

Considering the difficulty of obtaining reliable data on climate change-induced migration, States, and especially States with economic means, should provide more support for research on climate-change-induced migration, including on the definition of such migration, and the production of reliable disaggregated statistical data, that would allow policymakers at all levels of governance to identify the populations most at risk of climate-change-induced displacement and develop strategies to alleviate their vulnerability.¹³²

Special Rapporteur on the Right to Food: The Special Rapporteur on the right to food, Olivier de Schutter, has also discussed various obligations and good practices related to climate change.

The Special Rapporteur referred to conclusions of the International Assessment of Agricultural Knowledge, Science and Technology for Development, sponsored by the Food and Agriculture Organization and the World Bank, which determined that “the way the world grows its food will have to change radically to better serve the poor and hungry if the world is to cope with a growing population and climate change while avoiding social breakdown and environmental

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ *Ibid.* ¶ 79.

¹³² *Ibid.* ¶ 93(b).

collapse.”¹³³ De Schutter noted the “almost complete silence in international discussions,” which he asserted is an indicator of the risk that the “need for both social and environmental sustainability of the solutions devised will be.”¹³⁴ He also referred to the conclusion of the World Bank that “managing grain price risk is a fundamental requirement in a world characterized by more volatile international grain prices and recurring supply shocks that will likely result from global warming.”¹³⁵

The Special Rapporteur also stated that agroecology improves resilience to climate change.¹³⁶ He stated that “agroecological techniques can significantly cushion the negative impacts of such [extreme weather-related] events, for resilience is strengthened by the use promotion of agricultural biodiversity at ecosystem, farm system and farmer field levels, which is materialized by many agroecological approaches.”¹³⁷ He also noted that agroecological modes of farming are better equipped to deal with more frequent floods and droughts due to climate change.¹³⁸ For example, he referred to an agroforestry program adopted in Malawi that protected crops after a major drought due to the improved soil filtration agroforestry allowed.¹³⁹ He stated that agroecology also helps promote agricultural biodiversity, which helps to mitigate risks from extreme weather events, as well as from the invasion of new pests, weeds and diseases that will result from global warming.¹⁴⁰

Lastly, the Special Rapporteur noted that agroecology helps reduce the reliance on fossil fuels in food production.¹⁴¹ He stated that agroecology “contributes to mitigating climate change, both

¹³³ *Report of the Special Rapporteur on the right to food, Olivier De Schutter, Building resilience: a human rights framework for world food and nutrition security*, 8 September 2008, U.N. Doc. A/HRC/9/23, ¶ 9.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.* ¶ 11.

¹³⁶ *Report submitted by the Special Rapporteur on the right to food, Olivier De Schutter*, 20 December 2010, U.N. Doc. A/HRC/16/49, ¶ 28. According to the Special Rapporteur, “As a set of agricultural practices, agroecology seeks ways to enhance agricultural systems by mimicking natural processes, thus creating beneficial biological interactions and synergies among the components of the agroecosystem.” ¶ 12.

¹³⁷ *Ibid.* ¶ 28.

¹³⁸ *Ibid.* ¶ 29.

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.* ¶ 30.

¹⁴¹ *Ibid.* ¶ 31.

by increasing carbon sinks in soil organic matter and above-ground biomass, and by avoiding carbon dioxide or other greenhouse gas emissions from farms by reducing direct and indirect energy use.”¹⁴² Thus, agroecology can be used to help sequester carbon in soils and store carbon as soil organic matter, which will ultimately help decrease the levels of carbon dioxide in the environment.¹⁴³

Special Rapporteur on the Right to Water. Although Independent Expert (later Special Rapporteur) Catarina de Albuquerque did not draft the position paper on *Climate Change and the Human Rights to Water and Sanitation* described above, she endorsed its content and supported its recommendations.

First, the position paper provided several recommendations to the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) in preparation for COP 16, in Cancun in 2010. The recommendations included, *inter alia*, that the Parties: recognise the adverse impact of climate change on the enjoyment of human rights, especially the rights to water and sanitation, and ensure that future strategies, plans and policy-making integrate human rights standards and principles; make information widely available in a range of languages and accessible formats, insofar as the implications of climate change for water and sanitation are concerned; ensure more active, free and meaningful participation in climate negotiations under UNFCCC auspices, with the specific objective of integrating perspectives from the water and sanitation sectors, and human rights perspectives; and integrate a human rights based approach in National Adaptation Plans of Action (NAPAs).¹⁴⁴

The position paper also made over 20 general recommendations to States and, as appropriate, the UNFCCC and concerned international organizations.¹⁴⁵ For example, the paper recommended to ensure the rights to water and sanitation are protected in all adaptation plans and programmes at global, regional and national levels; collect the necessary data on a comprehensive and regular basis to enable adequate monitoring of the quality of water and sanitation in the face of climate change risks; ensure resilience of water and sanitation infrastructure as a major climate adaptation measure; prioritize climate change interventions to protect or ensure access to safe drinking water and to sanitation for marginalized or discriminated against groups, who risk suffering the most from climate change; ensure participation of concerned communities and stakeholders in local and national adaptation efforts; develop and support the functioning of accessible, affordable, timely and effective mechanisms of redress – including judicial, quasi-

¹⁴² *Ibid.*

¹⁴³ *Ibid.*

¹⁴⁴ Climate Change position paper, p. 4.

¹⁴⁵ *Ibid.* pp. 4-6.

judicial and administrative mechanisms – to safeguard against violations of the human rights to water and sanitation at the national level arising from climate risks and climate change policy-making; ensure adequate and flexible financing mechanisms to speed up investment in water management in developing countries, with a particular focus on the most vulnerable communities, in conformity with human rights; and promote a human rights based approach to Integrated Water Resources Management, emphasizing participation, non-discrimination, and accountability.¹⁴⁶

The paper also requested that Special Procedures and member States of the United Nations Human Rights Council and human rights treaty bodies focus more attention on human rights issues related to climate change.¹⁴⁷

Independent Expert on Extreme Poverty: The Independent Expert noted that any attempt to reduce poverty must be accompanied by efforts to tackle and mitigate the effects of climate change at the country, community and individual levels.¹⁴⁸ She proposed that social protection programmes can “shield the most vulnerable and marginalized from shocks caused by environmental degradation as a result of climate change and help them to adapt and meet their needs without undermining the capacity of the environment to provide for those needs over the long term.”¹⁴⁹ For example, she explained, this could include “cash transfers to those who are most vulnerable to climate change risks and have the least adaptive capacity.”¹⁵⁰

Moreover, she stated that the challenges posed by climate change can also provide an opportunity for States to address poverty reduction. She explained:

While climate change simultaneously poses massive challenges for human rights and the prospects of those living in extreme poverty, the international and domestic actions required in the context of climate change represent an unparalleled opportunity to overcome poverty, generate new levels of development, further the realization of human rights and build a more stable, balanced and robust global economy.¹⁵¹

¹⁴⁶ *Ibid.*

¹⁴⁷ *Ibid.* p. 7.

¹⁴⁸ *Report of the Independent Expert on extreme poverty and human rights*, 9 August 2010, U.N. Doc. A/65/259, ¶ 38.

¹⁴⁹ *Ibid.* ¶ 39.

¹⁵⁰ *Ibid.* ¶ 40.

¹⁵¹ *Ibid.* ¶ 42.

In this context, she explained that States — particularly the industrialized countries that emit high levels of greenhouse gasses — “must provide substantial funding, separate from and additional to pre-existing official development assistance (ODA) commitments, to help developing countries adapt to the inevitable effects of a warming climate.”¹⁵²

Special Rapporteur on the Human Rights of Internally Displaced Persons: Special Representative Walter Kälin noted that initiatives related to issues of climate change are of particular importance for the protection of persons displaced by natural disasters.¹⁵³ He quoted from the 2005 Hyogo Framework for Action, which provides that:

Each State has the primary responsibility [...] for taking effective measures to reduce disaster risk, including for the protection of people on its territory [...] from the impact of disasters’ and sets out five priorities for action, namely to (1) make disaster risk reduction ‘a national and a local priority with a strong institutional basis for implementation’; (2) ‘enhance early warning’ on the basis of identifying, assessing and monitoring disaster risks, (3) ‘build a culture of safety and resilience at all levels’; (4) “reduce the underlying risk factors”; and (5) “Strengthen disaster preparedness for effective response at all levels.” Disaster risk reduction is crucial in reducing or preventing displacement caused by natural disasters.¹⁵⁴

Kälin also recommended that States “ensure that the emerging framework to address climate change deals with the nexus between the effects of climate change and displacement and that the least developed countries are provided with the resources and expertise to address the human consequences of climate change.”¹⁵⁵

Special Rapporteur Chaloka Beyani urged that:

¹⁵² *Ibid*; see also *Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, Addendum, Mission to Viet Nam*, 17 March 2011, U.N. Doc. A/HRC/17/34, ¶ 101 (“The international community should continue providing official development assistance (ODA) to Vietnam in addition to necessary funds for climate change mitigation and adaptation measures.”).

¹⁵³ *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum, Protection of internally displaced persons in situations of natural disasters*, 5 March 2009, U.N. Doc. A/HRC/10/13/Add. 1, ¶ 17.

¹⁵⁴ *Ibid*.

¹⁵⁵ *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin*, 5 January 2010, U.N. Doc. A/HRC/13/21, ¶ 84 ff.

In the case of climate change and environmental destruction, due diligence obligations should prevail in order to prevent or mitigate the impact of natural disasters and the deterioration of environments necessary to human life and to the particular way of life of certain groups such as indigenous peoples, and persons with pastoralist or nomadic lifestyles.¹⁵⁶

Beyani further noted that in addition to the individual and collective responsibility of States to put in place adequate preventive and mitigation strategies, such as measures relating to climate change adaptation and disaster risk management, “States also bear responsibility for securing the human rights of persons affected directly or indirectly by related events.”¹⁵⁷ He explained that, this includes, among other things, “addressing food crisis brought on or aggravated by loss of arable land, droughts, floods, and loss of biodiversity, but it also entails putting in place systems of social protection for persons who have become landless, homeless, deprived of livelihoods – and more often than not also internally displaced.”¹⁵⁸

According to the Special Rapporteur, “A human rights-based approach should be used to inform and strengthen all actions, at the local, regional, national and international levels, to address climate change-related internal displacement.”¹⁵⁹ Beyani referred to the Guiding Principles on Internal Displacement, which he explained “are based on standards in international human rights law, humanitarian law and, by analogy, refugee law, provide a sound legal framework which States should implement at the national level through legislation, policies and institutions.”¹⁶⁰

Beyani also stressed that adaptation measures to address climate change-induced displacement should be “comprehensive in nature, so as to encompass disaster risk reduction and management; proactive strategies to prevent or minimize displacement; planned relocations, when appropriate; pre-emptive internal migration when this is based on sound national policies and used as a coping mechanism in the case of slow-onset disasters; and durable solutions.”¹⁶¹ Such measures, he explained, must be in line with international human rights obligations, and include the

¹⁵⁶ *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani*, 20 December 2010, U.N. Doc. A/HRC/16/43, ¶ 65.

¹⁵⁷ *Ibid.* ¶ 65.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Protection of and assistance to internally displaced persons*, 9 August 2011, U.N. Doc. A/66/285, ¶ 87.

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.* ¶ 88.

provision of humanitarian assistance and protection to affected persons during the displacement phase.¹⁶²

Beyani reminded States that in the case of climate change and environmental destruction “due diligence obligations should prevail in order to prevent or mitigate the impact of natural disasters and the deterioration of environments necessary to human life and to the particular way of life of certain groups such as indigenous peoples, and persons with pastoralist or nomadic lifestyles.”¹⁶³ According to Beyani, “these groups of persons as well as vulnerable groups, such as those suffering from chronic poverty in the developing world, are expected to be the most affected by climate change, natural disasters, and the ensuing displacement.”¹⁶⁴

Beyani also recommended for States to “closely examine the gender dimensions of displacement linked to the effects of climate change, in order to identify specific vulnerabilities and good practices in gender-sensitive protection, assistance, adaptation, mitigation, relocation and reconstruction processes.”¹⁶⁵

After his mission to Maldives, Beyani cautioned that land reclamation projects and protective walls seeking to minimise the effects of climate change, including in the form of more frequent and severe weather events and a rise in sea levels, may also cause environmental harm.¹⁶⁶ He stated, “While engineering techniques in relation to these measures appear to have improved over the years, continued care, environmental assessments and research is encouraged in this respect so that land reclamation projects do not have an adverse impact on reefs and the natural resilience of some islands.”¹⁶⁷ However, the Special Rapporteur explained that:

In the context of the various challenges faced by Maldives, disaster risk reduction and adaptation strategies, while essential, will not be sufficient to prevent internal displacement altogether, and that increased national attention, dialogue and commitment to address

¹⁶² *Ibid.*

¹⁶³ *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, 5 January 2010, U.N. Doc. A/HRC/13/21, ¶ 64.*

¹⁶⁴ *Ibid.*

¹⁶⁵ *Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, 18 March 2013, U.N. Doc. A/HRC/23/44, ¶ 93.*

¹⁶⁶ *Report of the Special Rapporteur on the human rights of internally displaced persons, Mission to the Maldives, 30 January 2012, U.N. Doc. A/HRC/19/54/Add.1, ¶¶ 33-34.*

¹⁶⁷ *Ibid.*

issues related to internal displacement should now be a priority for the country.¹⁶⁸

Special Rapporteur Beyani also discussed the importance of assessing the impact that climate-change related displacement could have on urban areas. Beyani stated that:

Urban dimensions of climate-change-induced displacement should be a key consideration in medium and long-term national development strategies, as well as adaptation measures. These should include strengthened systems to monitor influxes of IDPs, and to address the assistance and durable solutions needs of IDPs outside camps living in urban areas. IDPs, who are more likely to be unlisted and undocumented, are also likely to have less access to services and livelihoods, and to live in slum areas which are often situated in hazard-prone locations such as low-lying areas and landfill sites –thereby making them vulnerable to further risks, including to their physical safety, the loss of housing, and secondary displacement.¹⁶⁹

VIII. Rights of Indigenous Peoples¹⁷⁰

A. Rights Threatened by Climate Change

i. **Right to Food and Adequate Housing for Indigenous Peoples:** While recognizing that climate change affects all people, James Anaya, Special Rapporteur on the rights of indigenous peoples, stated in his *Report on the Situation of the Sami People in the Sápmi Region of Norway, Sweden and Finland* (2011) that climate change “has particular adverse affects on people such as the Sami who depend upon the arctic climate for their livelihoods.” Professor Anaya explained that: “As winter temperatures rise due to global warming, snow thaws and melts into the lichen that reindeer eat, and when temperatures then drop below freezing, the lichen is encased in ice making it very difficult for the reindeer to eat and digest. Also, summer pastures may change from open to shrub vegetation land and herders are finding it necessary to move their herds to drier ground.” [p.55]

¹⁶⁸ *Ibid.* ¶ 69.

¹⁶⁹ *Ibid.* ¶ 66.

¹⁷⁰ This section refers only to statements about indigenous rights in reports of the UN Special Rapporteur on the rights of indigenous peoples.

B. Statements Relevant to Obligations

i. Obligation to Ensure the Effective Participation of Indigenous People in Climate Change Decision Making: In his 2013 Report to the General Assembly, Special Rapporteur Anaya noted that indigenous peoples are among those “most affected” by climate change and that they thus demand greater participation in the international discussion on the subject. He further explained that indigenous peoples tend to advocate for a human-rights approach to climate change. [p.43]

IX. Global and Regional Environmental Agreements

Only one instrument reviewed for the mapping report on global and regional environmental agreements refers explicitly to climate change as a threat to the enjoyment of human rights. The Cancun Agreements, adopted in December 2010 by the Conference of the Parties (COP) of the Framework Convention on Climate Change (FCCC), quote language from Human Rights Council Resolution 10/4, recognizing that “the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights.”

The following provisions of environmental agreements are included, even though they do not refer explicitly to human rights, because they may be relevant to the relationship between human rights and climate change.

A. Rights Threatened by Climate Change

i. Rights to Life and Health: Article 1(1) of the Framework Convention on Climate Change (FCCC) defines “adverse effects of climate change” as “changes in the physical environment or biota resulting from climate change which have significant deleterious effects” on, inter alia, human health and welfare.” [p.12]

ii. Right to Food Security: The preamble of Biodiversity Convention notes the critical importance of conservation and sustainable use of biological diversity for meeting the food needs of the growing world population. One of the objectives under article 2 of the FCCC is to ensure that food production is not threatened by climate change. [p.16]

iii. Rights of Groups in Vulnerable Situations: The Cancun Agreements note “that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability.” [p. 17]

B. Statements Relevant to Obligations

i. **Public Education on Climate Change:** Article 6(a)(iii) of the FCCC requests Parties to promote and facilitate at the national and, as appropriate, sub-regional and regional levels, and in accordance with national laws and regulations, and with their respective capacities, public access to information on climate change and its effects. Article 4(1)(i) also calls on Parties to encourage the widest participation in promoting education, training, and public awareness related to climate change. [pp. 31-32]

Paragraph 7 of the Cancun Agreements recognises the need to engage a broad range of stakeholders at the global, regional, national and local levels, including governments, private businesses and civil society. Paragraph 8 also affirms that enhanced action on adaptation undertaken in accordance with the FCCC should follow a country-driven, gender-sensitive, participatory and fully transparent approach. Appendix 1 to the Agreements also provides that when States undertake measures to reduce emissions from deforestation and forest degradation in developing countries (REDD), States should promote and support “the full and effective participation of relevant stakeholders.” [p. 32]

ii. **Minimizing Adverse Effects of Climate Change:** Article 4(1)(f) of the FCCC provides that Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives, and circumstances, shall take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, formulated and determined nationally, with a view to minimizing adverse effects on, inter alia, public health from projects or measures undertaken by them to mitigate or adapt to climate change. Article 2(3) of the Kyoto Protocol provides that Parties shall strive to implement policies and measures under the Protocol in such a way as to minimize adverse effects and social impacts on other countries. Article 1 of the Kyoto Protocol uses the definition of “adverse effect” set forth in the UNFCCC, which includes significant deleterious effects on human health. [p.52]

iii. **Groups in Vulnerable Situations:** Paragraph 12 of the Cancun Agreements affirms that adaptation measures to address climate change should take into consideration vulnerable groups, communities and ecosystems. [p.58]

iv. **Gender Equality and the Effective Participation of Women:** Paragraph 7 of the Cancun Agreements recognises that gender equality and the effective participation of women are important for effective action on all aspects of climate change. Moreover, in the preamble to Section III(E) of the Agreements, the Parties affirm that responses to climate change should be coordinated with social and economic development in an integrated manner, with a view to avoiding adverse impacts on the latter, taking fully into account the consequences for vulnerable groups, in particular women and children. [p.60]

v. **Full and Effective Participation of Indigenous Peoples:** Paragraph 7 of the Cancun Agreements recognises that participation of indigenous peoples is important for effective action on all aspects of climate change. Paragraph 12 further affirms that adaptation measures should be guided and based on, as appropriate, traditional and indigenous knowledge. Paragraphs 70 and 72 of the Agreements also provide that when States undertake REDD measures to reduce emissions from deforestation and forest degradation in developing countries, States should promote and support “respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, as well as “the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities” [p.62]

vi. **International Cooperation and Assistance:** The FCCC has many provisions related to international cooperation and assistance. For example, article 4 of the Convention provides for the need to cooperate in preparing for adaptation to the impacts of climate change, undertaking research, the exchange of information, and in education, training and public awareness related to climate change. Articles 4(3) and (4) also call for developed country Parties to provide financial resources to developing country Parties in complying with certain obligations under the Convention, including in meeting adaptation costs. Article 2(1)(b) of the Kyoto Protocol requires Parties to cooperate with other Parties to enhance the individual and combined effectiveness of their policies and measures adopted under the Protocol, including through sharing their experiences and exchanging information. [p.68]

X. Non-Binding International Environmental Instruments

Similarly to the previous section, provisions of non-binding international environmental instruments are included in this section even if they do not refer explicitly to human rights, if the provisions may be relevant to the relationship between climate change and human rights.

A. Rights Threatened by Climate Change

i. **Right to Food:** Paragraph 24 of the Rome Declaration on World Food Security acknowledges that “the resource base for food, agriculture, fisheries and forestry is under stress and is threatened by problems such as desertification, deforestation, overfishing, overcapacity and discards in fisheries, losses of biodiversity, as well as inefficient use of water, climate change and depletion of the ozone layer,” resulting in a negative impact on both food security and the environment. Paragraph 2 of the Rome Declaration also recognises that “natural disasters, climate related ecological changes and environmental degradation have adversely affected millions of people. Although food assistance may be provided to ease their plight, it is not a long term solution to the underlying causes of food insecurity.” [p.16]

B. Statements Relevant to Obligations

i. **Transboundary Environmental Harm:** Many international environmental instruments state obligations to protect against transboundary environmental harm, building on Principle 21 of the 1972 Stockholm Declaration, which provides that States have “the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.” [p.49]

ii. **International Cooperation:** International environmental instruments often call for international cooperation to address transboundary issues. An early example is the Stockholm Declaration, the preamble of which provides that “international cooperation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field,” and explains that a “growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive cooperation among nations and action by international organizations in the common interest.” [p.50]

iii. **Development and the Well-Being of Future Generations:** Many international environmental instruments refer to the protection of future generations. For example, Principle 1 of the Stockholm Declaration recognises that man “bears a solemn responsibility to protect and improve the environment for present and future generations.” The preamble of the Report of the Conference on Population and Development states that “[e]cological problems, such as global climate change, largely driven by unsustainable patterns of production and consumption, are adding to the threats to the well-being of future generations” and Principle 3 of the Report provides that the “right to development must be fulfilled so as to equitably meet the population, development, and environmental needs of present and future development.” [pp. 55-56]

XI. Aarhus Convention

Neither the text of the UNECE [Aarhus] Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, nor its Compliance Committee, has addressed climate change specifically.

XII. Asia-Pacific, Arab and African Regional Agreements, and European Social Charter

A. Rights Threatened by Climate Change

i. **Right to Life and Physical Integrity:** In its Resolution 153, on Climate Change and Human Rights and the Need to Study its Impact in Africa (2009), the African Commission on Human and Peoples' Rights noted its concern that the "lack of human rights safeguards in various draft texts of the [climate change] conventions under negotiation could put at risk the life, physical integrity and livelihood of the most vulnerable members of society notably isolated indigenous and local communities, women, and other vulnerable social groups." [pp.8-9]

ii. **Health and the Environment:** The Singapore Declaration on Climate Change, Energy and the Environment (2007) expresses concern about the adverse impact of climate change on socio-economic development, health and the environment, particularly in developing countries. [p.19]

iii. **Food Production and Sustainable Economic Development:** The 2009 ASEAN Joint Statement on Climate Change to the 15th Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the 5th Session of the Conference of Parties serving as the Meeting of Parties to the Kyoto Protocol (2009 ASEAN Joint Statement on Climate Change) recognises the threat of climate change to food production and sustainable economic development. [p.19]

B. Statements Relevant to Obligations

i. **Including Human Rights Safeguards in Climate Change Agreements, including those specific to Vulnerable Groups:** The African Commission's Resolution 153 on climate change and human rights (2009) requests States to ensure that certain provisions be included in any agreement, instrument or text on climate change. Specifically, Resolution 153 urges the Assembly of Heads of State and Government of the African Union to "ensure that human rights standards safeguards, such as the principle of free, prior and informed consent, be included into any adopted legal text on climate change as preventive measures against forced relocation, unfair dispossession of properties, loss of livelihoods and similar human rights violations." The Resolution also urges the Assembly of Heads of State and Government of the African Union to ensure "that special measure of protection for vulnerable groups such as children, women, the elderly, indigenous communities and victims of natural disasters and conflicts are included in any international agreement or instruments on climate change. [pp.17-18]

ii. **Forecasting Climate Change Risks:** The Asian and Pacific Declaration on Population and Development (2013) sets out various duties on States related to addressing natural disasters. It

lists as priority actions for States to “[p]romote participation of the affected sections of the population in the planning and decision-making processes on relevant natural disaster risk reduction strategies,” and to “[e]nsure forecasting of the consequences of climate conditions and climate change, and prioritize addressing the needs of people living in fragile ecosystems in planning and decision-making processes on economic activities that affect the environment, including through such policies as those for promoting employment.” [p.20-21]

iii. **International Cooperation:** With respect to climate change, the Asian and Pacific Declaration on Population and Development (2013) calls on States as a priority action to “ensure collective efforts to halt global carbon dioxide and greenhouse gas emissions, as part of protecting livelihoods and ensuring survival, as well as to support and facilitate adaptation and/or migration with dignity and respect for identity where countries can no longer support the lives of people due to adverse changes in their circumstances and environment resulting from climate change.” [pp.22-23]

iv. **Promoting Public Awareness of Climate Change and Participation in Mitigation Policies:** The Singapore Declaration on Climate Change, Energy and the Environment (2007) sets out the need to deepen understanding of the region's vulnerability to climate change and implement appropriate mitigation and adaptation measures, including through promoting “public awareness of the impacts of climate change and enhancing participation in efforts to mitigate the effects of climate change.”

vi. **Obligation to Protect the Rights of Future Generations:** The 2009 ASEAN Joint Statement on Climate reaffirms “that Parties should protect the climate system for the benefit of present and future generations of humankind on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.”

XIII. Inter-American System

The issue of climate change, including its consequences for the enjoyment of human rights, has not yet been considered in detail by the Inter-American Court of Human Rights.

The Inter-American Commission on Human Rights (IACHR) stated in its 2011 annual report that it had “received alarming information on the profound impact that climate change caused by human activities has had on the enjoyment of human rights,” and urged States to give priority to human rights in climate change negotiations and in the formation and implementation of remedial and adaptation measures.¹⁷¹ [p.74]

XIV. European Convention on Human Rights

Neither the text of the European Convention on Human Rights nor the European Court of Human Rights has addressed climate change specifically.

¹⁷¹ *Annual Report of the IACHR 2011*, ¶ 16.