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Key points on Climate Justice

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Key Points on Climate Justice

Working paper of the Global Humanitarian Forum



Key Points on Climate Justice

1. Take responsibility for the pollution you cause
2. Act according to capability and capacity
3. Share benefits and burdens equitably
4. Respect and strengthen human rights
5. Reduce risks to vulnerable populations
to a minimum
6. Integrate solutions
7. Act in an accountable and transparent manner
8. Act now!



Foreword

The impacts of climate change are being felt today in countries around the world. In some places, environmental changes such as prolonged drought and rising sea levels are threatening entire communities and even nations. If we don't take meaningful and farsighted action now to address climate change, we are not only failing those who suffer today. We are also putting at risk the well-being of our planet and future generations.

Many difficult issues must be faced to chart a more sustainable course and slow the current process of climate change to manageable levels. Government leaders will have to find ways to determine the appropriate distribution of responsibilities for climate change emissions. They will need to forge new agreements on the equitable use of the remaining carbon resources our planet can tolerate and ensure that adequate resources are available to support those forced to adapt to changes in the environment which threaten life and livelihoods.

Finding common ground will require enormous political courage. But making progress clearly requires new commitments and a willingness to move beyond short-sighted and narrow conceptions of national interest. The underlying premises of our efforts to date to address climate change have almost exclusively centred around notions of benevolence, charity or generosity. These remain important and instructive motivations for individual and joint action. But the dangers associated with climate change demonstrate that alone they aren't enough.

A momentum is building around an important idea that could help us find a more promising way forward. A movement around Climate Justice is growing.

Climate Justice suggests that the time has come to think more deeply about our conceptions of obligation and responsibility – not just within nations but also beyond borders. The starting point is to acknowledge the clear injustice of the

fact that many decades of carbon emissions in richer parts of the world have led to global warming and caused severe climate impacts in the poorest countries. We must hold governments accountable for putting into practice well-established principles such as the requirement that polluters pay for the environmental damages they cause.

The concept of Climate Justice also recognizes that the world's poorest countries have contributed least to the problem of climate change and acknowledges that although we all have responsibilities to act, because the world's richest economies have contributed and continue to contribute most to the problem, they have a greater obligation to take action and to do so more quickly. That must include providing support to developing countries on a scale that not only ensures they avoid environmentally damaging economic development patterns of the past but also enables them to meet their current and projected energy needs.

Government leaders have acknowledged their responsibility to work together towards social justice and protection of the environment. They have signed treaties and declarations in which they agree to cooperate to protect the climate system and to ensure respect for fundamental human rights. Yet the challenge of climate change makes clear that we must define more precisely what international obligations entail, when they are triggered, and what factors condition our responses.



As a contribution to ongoing effort to shape a shared agenda for Climate Justice, the Global Humanitarian Forum has worked with a range of organizations and individuals to develop these "Key Points on Climate Justice." They reaffirm that the benefits and burdens associated with climate change and its resolution must be allocated in an equitable way. I commend this document as a valuable guide for all who are working to make Climate Justice a reality.

Mary Robinson, President and Founder,
Realizing Rights: The Ethical Globalization Initiative

Introduction

Increasingly unpredictable weather is having a severe impact on people and communities worldwide. We now know that climate change constitutes a serious humanitarian concern and a growing threat to socio-economic development, in particular for the world's poorest communities. These people, already the most vulnerable, contribute least to global emissions of gases that are the principal cause of climate change. They have the fewest mechanisms of protection available and the least means to cope.

However, the poor are not alone in facing the threat of climate change. If emissions of greenhouse gases worldwide continue to intensify, today's dangerous situation will become catastrophic for the entire planet and for all societies. Billions of people are now vulnerable to the indiscriminate impacts of climate change, and significant, immediate and sustained emissions reductions are an urgent priority. Those who already suffer or will suffer from the impacts of climate change, especially the poor, require support in order to adapt to environmental changes.

As the Universal Declaration of Human Rights affirmed more than 60 years ago, every human being is born free and equal in dignity and rights. Yet within the shared biosphere of our planet, the limited resources available to human society have been unequally consumed. The mass consumption of fossil fuels by some has led to a changing climate for the entire planet.

As a global community, we can act together. Efforts to ensure respect for human rights in the 21st century should include protecting the habitat in which human beings coexist. Ultimately, shared concern and commitment to the planet we inhabit and to our neighbours both near and far should be a unifying force.

The following "Key Points on Climate Justice" are intended to serve as principles to guide policy and action on climate change.



1. TAKE RESPONSIBILITY FOR THE POLLUTION YOU CAUSE

“The polluter should, in principle, bear the costs of pollution.”¹ The Rio Declaration on Environment and Development outlined this point nearly two decades ago, and today more than ever, when pollution from greenhouse gases linked to human activity is known to be the principal cause of climate change, polluters should pay for the damage they cause. Pollution should have a price that reflects the full cost of its impact on human society.

Studies by the Global Humanitarian Forum have highlighted how climate change is worsening major health problems, such as malnutrition and malaria, and claiming several hundred thousand lives every year. The Forum estimates the full cost of carbon per year to be in excess of US 100 billion dollars, including large-scale economic losses in the short, medium and long-term for communities around the world.²

The so-called polluter-pays principle is not new. It is a well-established concept that seeks to limit the environmental damage of any economic activity by allocating the costs of damage back to the polluter. In economic terms, prices for goods and services should reflect the true and full costs of their production and consumption, including the total costs of their health, environmental, natural resource, social, and cultural harms.³

As long as these costs remain hidden, markets will react to distorted price signals, leading to inefficient economic choices.

The polluter-pays principle has moved progressively into the legal sphere, where it is now one of the oldest principles of international environmental law.⁴ It was developed and has been applied mainly in response to cases of direct environmental hazard caused by toxic pollution.⁵ However, the aim of the principle today is to encourage polluters to reduce their environmental impact rather than to sanction polluters after the fact. Effective dissuasive sanctions are necessary in order to trigger fundamental behavioural change among polluters. The cost of the likely sanction must exceed the costs of avoiding pollution.

With respect to climate change, polluters should be encouraged to end or minimize emissions wherever possible. Where this is not achieved, they should still be expected to compensate for any harm or negative effects locally and elsewhere caused by their contribution to overall emissions.

“ Those who have polluted most, who still pollute most, should actually pay the price. Not as charity, but as a requirement. ”

Archbishop Desmond Tutu





2. ACT ACCORDING TO CAPABILITY AND CAPACITY

Every actor can and should contribute to resolving climate change according to physical, economic, technical, political and intellectual capabilities and capacities. However, responsibility for the effects of climate change can only be attributed based on an ability to reasonably assume that responsibility. The poor cannot be expected to share the same burden as other groups, since a greater proportion of their existing resources are necessary for survival and a dignified existence.⁶

Many experts agree that in order to avoid catastrophic effects of climate change, global temperature averages must not rise above 2 degrees Celsius (3.6 degrees Fahrenheit). Indeed, already today, at a temperature rise of less than 0.8 degrees Celsius, the impacts of climate change are substantial. This implies not only contraction (decreasing the amount of emissions in the atmosphere) but, on a medium time-frame, also convergence (people everywhere pollute to a similar, and for some significantly lower, amount). Within globally sustainable levels of greenhouse gas concentration, emerging economies and developing countries must aim at increasing development without reproducing the per capita emission levels of industrialized countries today. Likewise, the emission levels of industrialized nations will have to achieve aggressive reductions.

The world's 50 least developed nations account for less than 2% of greenhouse gas emissions. They lack the same responsibility as developed countries in creating climate change and resolving it. However, it is those very

countries who suffer the most serious impacts to their socio-economic well-being and survival.

Ultimately, the aim is not to stop emitting greenhouse gases altogether—which is not, in any case, feasible—but to reduce emissions to globally sustainable levels. However, many countries are emitting below the sustainable level. These countries should not have to reduce emissions at present. The imperative for them should be to increase living standards, even if this means increasing emissions for a while. However, as a global goal, development should proceed as cleanly, sustainably and efficiently as possible. Access to clean and efficient technologies in the poorest countries is crucial to achieving global sustainability of greenhouse gas emissions.⁷

Thus, while overall emissions must contract significantly on a global level, it is clear that for the world's poorest, some amount of emissions growth will need to continue, at least in the medium term, to allow for a transition that does not jeopardize vulnerable populations. Not to do so could have severe impacts on the basic survival of poor communities around the world.

“ Finding a way to redesign and redirect our livelihoods and our economies from high to low carbon intensity is a complex proposition, all the more so because the environmental, social and economic threats of climate change must be tackled with equity and with justice. ”

Ricardo Lagos, UN Secretary-General's
Special Envoy for Climate Change





3. SHARE BENEFITS AND BURDENS EQUITABLY

As the equality of all human beings is a universally accepted principle, the benefits and burdens associated with climate change and its resolution should be allocated in an equitable way.

Those who have benefited and still benefit from emissions in the form of economic development and wealth, mainly industrialised countries, have the ethical obligation to share benefits and technologies with those who suffer the effects of these emissions, mainly vulnerable people in developing countries.⁸

Human activity is the principal cause of climate change, in particular through the emission of greenhouse gases and deforestation. Greenhouse gas emissions and deforestation are themselves largely by-products of economic and industrial practices that have driven economic growth in different parts of the world. In our carbon-based economy, wealth and high levels of emissions and consumption of resources largely correlate. In the same vein, poverty and low levels of emissions and resource use also correlate.

Economic development and social progress, as humanity has experienced them so far, are ultimately based on the unsustainable consumption of scarce resources. This process has led to the destruction

of the natural environment and negative effects on human society, in particular through climate change. The impacts of climate change disproportionately affect the poor.⁹

The consumption of common goods and finite resources has generated positive outcomes, such as technological innovations, including for harnessing renewable energies. Many such benefits today are inaccessible to low-income communities because of intellectual property laws and other contributing factors, which only further entrench global inequities. Granting access to the latest green technologies is an appropriate way to share the benefits of development. Many other low and high technology renewable or low-carbon solutions, such as solar-powered cooking appliances, are available. The full introduction of such technologies can greatly promote sustainable development and enhance resilience in the face of climate change.

“ Poverty reduction must happen in parallel with emissions reduction. Poverty and climate change are the two most important challenges facing us today. We must succeed on both fronts, and at the same time. This is what sustainable development is all about. ”

Gro Harlem Brundtland, UN Secretary-General's
Special Envoy for Climate Change





4. RESPECT AND STRENGTHEN HUMAN RIGHTS

The global human rights framework provides a legal and ethical foundation for the vulnerable to seek support and redress. It also provides governments with a moral standpoint in climate negotiations. Human rights supply legal imperatives but also a set of internationally agreed values and thresholds around which common action can be negotiated and motivated. International cooperation for resolving climate change is vital for the respect and implementation of human rights.

Climate change is already undermining a broad range of human rights, such as rights to health and life; food, water and shelter; rights associated with livelihood, culture, migration and resettlement; gender equality; and personal security. The worst effects of climate change are likely to be felt by individuals and groups whose rights protections are already precarious.¹⁰

Rights protections are inevitably weakest in resource-poor contexts. But resource shortages also limit the capacity of governments as well as individuals to respond and adapt to climate change. Worse, where governments are poorly resourced, climate change will tend to harm affected populations unevenly, in ways that are de facto discriminatory.

The construction of an international climate change regime has rights implications. At one level, any strategy (or mix of strategies) that is applied globally

will determine the long-term access of millions of people to basic public goods. At another level, choices made locally—such as whether and where to cultivate bio-fuels or preserve forests—will affect food, water and health security and, by extension, the cultures and livelihoods of many of those people.

Adaptation policies raise human rights concerns – for example, if communities or individuals are forcibly removed from disaster or flood-prone areas, or expected to conform to new economic policy imperatives.¹¹ Adaptive interventions can reduce the likelihood that rights violations might result; interventions after the fact may provide redress where violations have already taken place.

In tackling climate change, states are obliged to attend to human rights risks and consequences. The great majority of states that are party to the UNFCCC are also signatories of the main human rights treaties.¹² In principle, therefore, whatever actions are taken to address climate change should conform to human rights norms as a matter of law.

Beyond this, human rights provide an ethical frame for approaching the problem of climate change and the construction and implementation of policy measures. A human rights lens puts the human person at the centre of analysis, not merely as a potential victim of climate change shocks, but as an active participant in constructing and implementing policy.¹³

“ If we do not protect our forests, if we do not protect our biodiversity, if especially we do not protect the source of our water... we will be the ones to move, we will be the ones to die. ”

Wangari Maathai, Founder, Greenbelt Movement





5. REDUCE RISKS TO VULNERABLE POPULATIONS TO A MINIMUM

Human activities always include risks. Risks cannot be avoided, but should be reduced to a minimum. The heightened vulnerability associated with poverty means that impoverished communities are most at risk to the negative impacts of climate change. Women are particularly exposed to climate change-related risks because of gender discrimination, inequality and inhibiting gender roles.

Where scientific information indicates that vulnerable individuals or communities bear risks beyond a certain threshold, inaction to reduce such risks is unjustifiable. Risk analysis should include immediate environmental disasters and societal risks such as social conflicts, destabilized political systems and stresses on food, water, security, health, and other human rights.

Some societies are better equipped to deal with risks than others. Tools to handle risks include complex risk management systems, such as different types of risk assessment, risk-related data, insurance coverage and technological safeguards. Such tools are more prominent in highly developed countries. Poor communities typically lack modern means for dealing with risks. In such communities, tools for the assessment of risks are often unavailable, and risk-assessment data are often deficient.¹⁴

Climate change involves highly complex and volatile risks because of the increased unpredictability and severity of weather. Given that climate change affects almost the entire spectrum of human society and sustainable development, it is crucial that risk analysis examines all possible implications of climate shocks, in order to minimize the scale of their fallout or escalation.¹⁵

Today, many indications point to growing risks for populations around the world as a result of climate change. The Global Humanitarian Forum's Human Impact Report noted that some 4 billion people live in areas vulnerable to the impacts of climate change. Some 500 million people over the next decade, however, will live in areas of *extreme* risk, including mass loss of life and livelihood. Vulnerable populations currently possess only limited adaptation and risk reduction protection. Political actors at the local, national, regional and international levels should make the reduction of these risks a priority.¹⁶

To tackle the climate crisis, bold decisions will be needed. Some of the decisions might themselves bear risks, such as those connected with structural changes of economies. However, risks should not prevent changing from a carbon-based to a low- or zero-carbon economy. Risk assessment should be done on a global level and on the basis that “business as usual” exposes the world's poorest to intolerable risks. As benefits and burdens should be shared in an equitable manner, risks should also be distributed according to responsibility and capacity to cope with them.

“ Global action – not charity to Africa, but profitable investments in viable, non-polluting energy generation for and in Africa, is what is needed. ”

Festus Mogae, UN Secretary-General's Special Envoy for Climate Change





6. INTEGRATE SOLUTIONS

An integrated approach is the only viable path to combating global climate change. That means an obligation to pursue multiple tracks in parallel. Emissions should be mitigated in order to stem the root cause of climate change. At the same time, adaptation is imperative for dealing with the unavoidable impacts of climate change. Transfer of technologies, knowledge and experience is necessary to achieve both mitigation and adaptation worldwide. And all these actions can and should be mutually-reinforcing, equitable, sustainable and in respect of human rights.¹⁷

Adaptation refers to actions that help human beings and natural ecosystems adjust to climate change. Adaptation alone, however, is not always enough. Runaway climate change can trigger impacts so large in scale, such as a massive sea-level rise, that adaptation is simply not possible. Mitigation therefore is crucial. Mitigation means actions that reduce net carbon emissions and limit long-term climate change while continuing development.

There are many cases whereby mitigation and adaptation can be carried out jointly, such as through reforestation projects or mangrove plantations, which may act as both carbon sinks and prevent disaster-exacerbating land or coastal degradation.

Transfer of technologies to poor communities to achieve a low-carbon economic transformation and to provide tools for effective adaptation is crucial. Many possibilities are already at hand and can serve several purposes. Solar cookers, for example, can free people from the burden of collecting firewood. Independence from firewood can contribute to stopping deforestation. An intact forest serves as a natural carbon sink; it prevents landslides and acts as a water reservoir. When looking for solutions, a holistic perspective should be adopted.

In some cases, efforts to tackle climate change can worsen inequities, do greater harm to the natural environment or infringe human rights. Increasing the cost of carbon to a level more reflective of its true cost to human society, for instance, could act as a regressive tax, raising the cost of basic goods and services needed for human survival. The additional financial burden could disproportionately penalize low-income communities due to increases in energy prices. Forestry sink projects may risk infringing the rights of indigenous communities who rely on the access and use of forests for socio-economic and cultural reasons. All such negative effects should be avoided, or where avoidance is not possible, minimized and offset with effective compensating policies.

“ If we allow temperature to increase 3.5 degrees, 40 to 70 percent of the species would be in danger and face the threat of extinction. ”

Rajendra Pachauri, Chairman, Intergovernmental Panel on Climate Change





7. ACT IN AN ACCOUNTABLE AND TRANSPARENT MANNER

To address climate change, we need participation of people everywhere with fair, accountable, transparent, and corruption-free procedures.

Global solutions require a climate of confidence at all levels. On the individual level, each person should do his or her honest best to re-use, reduce and recycle, and should hold governments to policies and actions that do the greatest good for the greatest number. On the government and global levels, promises need to be kept. Procedural justice is necessary for those affected by climate change.

Participation of the public in the decision-making process is a widely accepted principle, both in human rights law¹⁸ and international environmental law.¹⁹ Participation increases accountability and transparency, and mutual accountability is a key value for national and international confidence between actors. States should not only facilitate public awareness and participation, but also encourage such participation. They should ensure that information is accessible to the public, comprehensible, and that people are aware of their right to comment and participate in the decision-making process.

Transparency, accountability, the rule of law and adequate access to information are basic principles for good governance and a democratic society.²⁰ Participation of the people, and particularly those likely to be affected,

will lead to better decisions in the long term. The availability of information facilitates the effectiveness of environmental monitoring by the public, and enhances public understanding of environmental issues and policy goals.²¹

Vulnerable communities have too often been excluded from participating in the negotiation process on issues affecting their communities and lives. But even when included, these states have often suffered under a comparative disadvantage. They can usually afford few delegates to represent them at climate negotiations, where rich countries can provide dozens working on the issue.

Access to justice comprises a final pillar of participatory rights.²² Bringing claims before judicial courts, for example, may help indigenous communities fighting for the protection of their environment.²³

Transparent and corruption-free procedures to implement conventions, agreements and received support are an important part of mutual accountability, which builds confidence. Broken promises undermine confidence in political agreements and increase conflicts. Climate justice can only be attained through reliable, accountable and deliverable pledges, which reduce the gap between global aspirations and global actions.

“ If the world leaders rise to the challenge and seize the opportunity for bold and visionary leadership, it will provide a retooling of our global economy as well as a livable planet for future generations. ”

Srgjan Kerim, UN Secretary-General's Special Envoy for Climate Change





8. ACT NOW!

Delayed action increases the danger from climate change, leading potentially to more damage and harm for people and communities, as well as for broader socio-economic development. The latest science points to extended delays, estimated at around 20 years, between actions to reduce greenhouse gas emissions in the atmosphere and any corollary impact on climate change. Delay can lead to higher costs because the economic and social damage caused will be higher, and therefore the costs to repair can explode. The science of climate change, as well as the most effective mitigation and adaptation strategies, are sufficiently known and available for implementation. We should take action now.

There is a limited timeframe in which net emissions must begin to fall globally to avoid catastrophic climate change. Current estimates range from around 2015 to 2020. Any later date for peaking of the consumption of fossil fuels would mean negative carbon emissions by 2050 and later. Technology for subtracting carbon out of the atmosphere is not available on an adequate scale at this time, nor can its future availability be considered a reliable basis for decision-making.

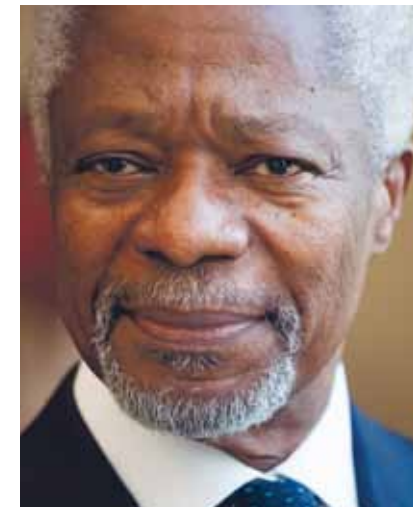
Human society is still far from reversing the trend of ever-increasing consumption and emission of greenhouse gases. Since coordinated action worldwide is an imperative for dealing with climate change, an international climate change agreement is a priority. However, any agreement realized at the 2009 United Nations Climate Conference in Copenhagen, Denmark will become effective only after 2012 and will most likely provide for a 2-7 year timeframe for enacting net global emission reductions.

Delayed justice is injustice. Tackling climate change is a highly complex endeavor, and the negotiations seeking international accord in this respect are widely considered among the most complex ever undertaken. Nevertheless, the actions that need to be carried out are straightforward: rigorous cuts in net emissions; promotion of sustainable development to reduce socio-economic vulnerabilities; investing in preventive measures against climate threats, including disaster risk reduction; and, ensuring wide dissemination of relevant technologies, particularly those that are renewable.

The knowledge and means to tackle the problem are available today. There should be no further delay.

“ We all understand the urgency of this challenge. It is truly time to stop talking and to take action. ”

Kofi Annan, President, Global Humanitarian Forum



“ I am motivated to act because ... ”

There are many excuses not to act: “I am too small and weak to solve the problem of climate change.” “It will happen anyway, whatever we do.” “We have to accept this fate as God’s will.” “We may profit from the disaster.” “Others have to act first.” “Not in my lifetime, I am too old.” “We have to postpone action and solve the economic crisis first.” Such sentiments serve only to delay a response to the challenges of climate change.

Why should we care about climate change? Differing world views, religions and value systems suggest various motivations for responsible behavior and acting now.

“We act for our children.” We received life from our parents and ancestors and wish to bequeath to future generations the same opportunities we enjoy.

“We act for self interest.” Favorable climate conditions are a prerequisite to our survival. Self interest is legitimate because everybody has the right to care for their well-being.

“We act for others.” Do not visit upon others what you would not wish visited upon yourself. The ethic of reciprocity – according to which one has a right to just treatment and a responsibility to ensure justice for others – balances self interest with the interest of others.

“Now we know, now we must act.” We can no longer say we did not know.

“We act for human rights.” Fundamental human rights such as life, liberty and security, access to food, water or shelter are threatened by global warming. These

rights, as enshrined by the 1948 Universal Declaration of Human Rights, represent a major accomplishment of humanity, and we wish to maintain and protect them.

“We act to observe a legal duty.” We take seriously the responsibility to fulfill the legal obligations arising from the implementation of the Universal Declaration of Human Rights in our national legal systems.

“We act under the blessing of divine authority.” Life and creation emanate from this divine authority. We respond to this gift with responsible behavior and good stewardship. Human beings with their diversities of faith universally share this responsibility toward the divine.

“We act for the moral imperative of equity and solidarity.” All human beings are born free and equal in dignity and rights (Universal Declaration of Human Rights, Article 1). We act for climate justice as a moral commandment of solidarity with people most affected by climate change.

“We act for the planet.” Earth has sustained a wealth of species since time immemorial. It is a gift to humanity, and we act to preserve life and diversity for the well-being of the human community. Climate disasters destroy our natural habitat and threaten our way of life.

“We act for new opportunities.” We act with creative solutions that will enable us to advance scientific research, generate new business opportunities and create employment in a sustainable environment.

Whatever our motivations, we can and should act collectively to further the cause of climate justice.

Christoph Stückelberger, Founding Director, Globethics.net



Endnotes

1. TAKE RESPONSIBILITY FOR THE POLLUTION YOU CAUSE

1. Principle 16, Rio Declaration on Environment and Development, June 1992.

2. Global Humanitarian Forum, *Human Impact Report: Climate Change – The Anatomy of a Silent Crisis*, Geneva, 2009. See also Stern, Nicholas, *Stern Review: The Economics of Climate Change*, Cambridge University Press, Cambridge, 2007; World Health Organisation, *The Global Burden of Disease, 2004 Update*, Geneva, 2008; World Health Organisation, *WHO Malaria Report 2008*, Geneva, 2008.

3. Pigou, Arthur Cecil, *The Economics of Welfare, 2nd Edition*, London, Macmillan, 1924. This principle, that prices should reflect the full cost of production and consumption, relates to the economic theory of externalities. Negative externalities refer to the production or consumption of goods and services that create negative effects – for society as a whole, or for groups or individuals – which carry costs not reflected in the price. For example, excessive use of fertilizers and pesticides, run-off of these into water, and over-abstraction of groundwater produce environmental damages that are economically quantifiable, but are not reflected in the price of pesticides, nor, in most cases, in the price of agricultural produce. In such situations, consumers benefit from market prices that do not reflect the true cost burden of a given good or service on society at large, and producers benefit from the sale of goods or services at an artificially deflated price.

4. At the 1992 Rio Conference, the polluter-pays principle was incorporated into Agenda 21 and Principle 16 of the Rio Declaration on Environment and Development, which states:

"Internationalization of International Costs - National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment."

The principle of responsibility for pollution caused between nation states is expressed in the 1992 United Nations Framework Convention on Climate Change (UNFCCC). Directly drawing from Principle 22 of the 1972 Declaration of the United Nations Conference on the Human Environment (also known as the Stockholm Declaration), the UNFCCC, which enjoys near universal ratification status by 192 countries, recalls in its Preamble:

"States have, in accordance with the Charter of the United Nations and the principles of international law [...] 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."

5. See Article 4, Charte de l'environnement, La constitutionnelle N°2005, France: "Toute personne doit contribuer à la réparation des dommages qu'elle cause à l'environnement, dans les conditions définies par la loi."; Article 225, §3, Constitution of Brazil, 5 October 1988: "Procedures and activities considered as harmful to the environment shall subject the infractors, be they individuals or legal entities, to penal and administrative sanctions, without prejudice to the obligation to repair the damages caused."; Article L110-1 II 3, Environmental Code, France, Act N° 2002-276, 27 February 2002: "The polluter-pays principle, according to which the costs arising from measures to prevent, reduce or combat pollution must be borne by the polluter;" Article 74, Federal Constitution, Switzerland, 1999: "(1) The Federation adopts rules on the protection of human beings and their natural environment against harmful or irritating effects. (2) The Federation provides for the fact that such effects are avoided. The costs of such avoidance and removal carry the causers [...]".

2. ACT ACCORDING TO CAPABILITY AND CAPACITY

6. The principle of "common but differentiated responsibilities" found in Article 3 of the 1992 UN Framework Convention on Climate Change (UNFCCC) is an expression of climate justice. Coupled with the polluter pays principle, responsibilities are linked to capabilities and capacities. There is no right to pollute. See also the notion of the "common heritage of mankind" in a number of areas of international law, including the 1970 Declaration of Principles Governing the Seabed and the 1982 UN Convention on the Law of the Sea.

7. Internationally, recognition of the need to differentiate according to socio-economic parameters is reflected in a range of legal and normative documents. The 1972 Stockholm Declaration, Principle 23, emphasised the need to consider "the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries." The 1992 Rio Declaration, Principle 6, states that "environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply," that "the special situation of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority."

All those not in the lowest-income group should provide assistance [does this formulation not tend to privilege private charity action over public policy?] to enable the low-carbon transformation of the poor and leave scope for some unavoidable medium-term expansion of emissions among this group. Efforts should be taken to avoid locking out the poor from enjoying modern forms of energy - a scenario that would have a dramatic negative impact on the socio-economic development of these groups.

3. SHARE BENEFITS AND BURDENS EQUITABLY

8. Treat others as you wish others to treat you. This "Golden Rule" of reciprocity, based on the equality of all human beings and accepted worldwide, is one ethical reason for the sharing of benefits and burdens. Sharing benefits means: If all human beings are equal, they have equal rights to benefit from and use common goods such as air, water and soil. There is no ethical reason why some should have more rights and lesser obligations. Burden sharing means: The burden of the effects of climate change is heavier for vulnerable people who often contribute less to these effects. Climate Justice requires that the burdens should not be carried by those who have contributed least to the problem and are least able to bear the costs.

9. The situation contrasts with Principle 5 of the 1972 Stockholm declaration, whereby "the non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind." Furthermore, if "[a]ll human beings are born free and equal in dignity and rights" as per article 1 of the Universal Declaration of Human Rights, then every human being should also have equal rights to benefit from common goods that are shared among all humanity, such as air and water. So too, Article 29.1 of the same convention stipulates that "everyone has duties to the community in which alone the free and full development of his personality is possible". Thus, while every individual should enjoy the fulfillment of their inalienable rights, they also have a certain obligation to ensure the same is true for others, or not adverse to that.

In reality, mainly for socio-economic reasons, access to non-renewable resources has been heavily restricted. A number such resources have neared exhaustion. As a result of over-extraction and climate change, many common goods, such as water, are now severely depleted. Again, it is the world's poorest groups who are disproportionately affected.

In recognition of the burdens of climate change, which may also include efforts towards resolving the problem, such as through emission reductions or forest preservation, as well as adaptation to climate change, Article 3.2 of the UNFCCC states that: "The specific needs and special circumstances [...] of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration."

4. RESPECT AND STRENGTHEN HUMAN RIGHTS

10. This is partly coincidence. As it happens, the most dramatic impacts of climate change are expected to occur (and are already being experienced) in the world's poorest countries, where rights protections too are often weak. But the effect is also causal and mutually reinforcing. Populations whose rights are poorly protected are likely to be less well-equipped to understand or prepare for climate change effects; less able to lobby effectively for government or international action; and more likely to lack the

resources needed to adapt to expected alterations of their environmental and economic situation. A vicious circle links precarious access to natural resources, poor physical infrastructure, weak rights protections, and vulnerability to climate change-related harms.

11. Adaptation may be reframed as a compensatory or corrective response to potential or actual climate change-related human rights violations. Indeed, discussions of adaptation at international and government level (as opposed to autonomous local measures) already assume a rights basis for policy construction, even if it is rarely articulated in those terms.

12. See the 1966 International Covenants on Civil and Political, and on Economic, Social and Cultural Rights; the 1989 Convention on the Rights of the Child; the 1965 Convention on the Elimination of All Forms of Racial Discrimination; the 1979 Convention on the Elimination of All Forms of Discrimination against Women; the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and the 1984 Convention Against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Principles of transparency and accountability are vital in the creation of a regime that commands widespread support, is equitable in its outcomes and effective in its reach. The imperative to address the human rights consequences of climate change reinforces the UNFCCC's own imperatives of adaptation and technology transfer. By focusing attention on the protection of the most vulnerable, a human rights lens can further buttress the principles of equity and common but differentiated responsibilities that occur in the UNFCCC.

5. REDUCE RISKS TO VULNERABLE POPULATIONS TO A MINIMUM

14. Africa has a weather monitoring network for climate-related data that is some eight times below the World Meteorological Organization's minimum recommended standard. Therefore basic weather and storm forecasting and early warning services are lacking. Insurance coverage in developing countries, and in particular, least developed countries, is extremely low. (For a graphical representation of microinsurance coverage in Africa and South East Asia, see <http://knowledge.allianz.com/en/media/graphics/37/pdf>, last visited August 2009). Scarce resources and barriers to technology mean that general risk management infrastructure, such as early warning and communication systems, are often rudimentary or totally absent. Further, as climate change alters weather patterns, traditional knowledge on which poor communities typically rely becomes unsuitable for dealing with weather and climate-related concerns.

15. As is laid out in the Hyogo Framework for Action, which is the key instrument for implementing disaster risk reduction as adopted by the Member States of the United Nations:

"The starting point for reducing disaster risk and for promoting a culture of disaster resilience lies in the knowledge of the hazards and the physical, social, economic and environmental vulnerabilities to disasters that most societies face, and of the ways in which hazards and vulnerabilities are changing in the short and long term, followed by action taken on the basis of that knowledge."

The link between technology and risk management is outlined in principle 18 of the 1972 Stockholm Declaration:

"Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind."

16. In addition to the immediate physical risks, special attention is needed for indirect consequences and secondary effects of risks caused by climate change such as violent struggles for resources, social conflicts of distribution of limited resources, psychic disorientation, despair and depression.

6. INTEGRATE SOLUTIONS

17. Article 3.3 of the UNFCCC states "The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse affects."

7. ACT IN AN ACCOUNTABLE, TRANSPARENT AND RELIABLE MANNER

18. See Article 25, International Convention on Civil and Political Rights, December 1966.

19. Principle 10 of the Rio Declaration states:

"Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

20. Participatory rights consist of three pillars: the access to information, public participation and the right to justice. Article 1 of the 1998 Aarhus Convention makes it clear that the right of and access to information is not an end in itself but is a means to the greater goal of assuring "the right of every person of present and future generations to live in an environment adequate to his or her health and well-being." Moreover,

the Convention requires States to act proactively to provide periodic reports on environmental risks and systematic updates, as well making them available to the public. As per article 7 public participation is equally important as it can influence the decision-making process:

"Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public."

21. See Principle 19 of the 1972 Stockholm Convention: "Education in environmental matters, for the younger as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminates information of an educational nature on the need to project and improve the environment in order to enable man to develop in every respect."

22. Article 9 of the 1998 Aarhus Convention requires, *inter alia*, that States permit legal challenges to the substantive or procedural legality of any decision, act, or omission subject to the convention, as well as the enforcement of national environmental law.

23. See *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*,

Background and Acknowledgments

The Global Humanitarian Forum was founded in 2007 to bring together civil society, business, international organizations, governments and other actors to help solve humanitarian problems.

At the organization's first conference in June 2008, the Forum Foundation Board made the decision to focus its attention initially on what the Board identified as the biggest emerging humanitarian question today: the human face of climate change. At the conference Mary Robinson, former President of Ireland and Founder/President of the organization Realizing Rights (Scott Jerbi to check for title), chaired a panel on "climate justice in a shared global ecosphere." The session set the tone of the conference and led to a wide-ranging discussion on climate justice.



Plenary of the conference
"Climate Justice Dialogue"
at the University of Pretoria,
South Africa, February 2009

To explore the question of climate justice in more detail, the Forum convened in December an Expert Group on Climate Justice* chaired by Prof. Christoph Stückelberger, Founding Director of Globethics.net, and consisting of influential and knowledgeable voices on the issue. On the basis of the group's deliberations, a high-level dialogue on climate justice took place in late February at the University of Pretoria. Ms. Robinson, Archbishop Desmond Tutu and the Forum's President, Kofi Annan, discussed with students the eight points included in this booklet. Rajendra Pachauri, Chair of the Intergovernmental Panel on Climate Change, and Wangari Maathai, Founder of the Greenbelt Movement, contributed with video messages.

Following the discussion in February, Ms Robinson explored the issue further with consulting experts** from Berkeley Law and other institutions.

While climate justice is an evolving concept, this booklet tries to summarize the discussions so far and hopes to contribute to the upcoming conference of state parties in Copenhagen in December 2009. The Global Humanitarian Forum wishes to thank the Club of Madrid for its kind cooperation. We owe thanks to everybody who contributed to this publication, in particular Prof. Christoph Stückelberger, Scott Jerbi and Stephen Humphreys of the International Council for Human Rights Policy. I would also like to acknowledge the work of the editing team, Keith Collins, Daniel Jug and Matthew McKinnon. The Global Humanitarian Forum will continue to work on the subject.

Martin Frick, Director, Global Humanitarian Forum



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The Global Humanitarian Forum encourages support of Collectif Argos's
petition on vulnerable populations affected by climate change at
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“ Finding common ground on climate justice will require enormous political courage. Making progress clearly requires new commitments and a willingness to move beyond short-sighted and narrow conceptions of national interest. ”

Mary Robinson, President and Founder,
Realizing Rights: The Ethical Globalization Initiative



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