

Policy paper

Human rights and Climate change

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HUMAN RIGHTS AND THE ENVIRONMENT
IN THE EU // TOWARDS AN INCLUSIVE DEBATE

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Human Rights and the environment in the EU. Towards an inclusive debate.

Human rights and climate change – Policy Paper 4

Chris Spence, International Institute for Sustainable Development (IISD), European Capacity Building Initiative (ECBI), and Oxford Climate Policy group, presented two interviews with climate change experts, focusing on, among other things, how climate change undermines decades of efforts to promote human rights. He highlighted developments following the adoption of Resolution 48/13 by the United Nations General Assembly, which recognizes the right to a clean, healthy, and sustainable environment as a human right, and addressed legal, policy, and other aspects of this rapidly evolving field on the intersection of human rights and environmental protection.



Figure 1. Seminar's poster.

Annalisa Savaresi, Associate Professor of International Environmental Law, University of Eastern Finland, addressed human rights as a legal framework aiming to protect basic facets of everyday life, evolved over time in a complex, stratified manner. She drew attention to "new generation" rights, including the right to a healthy environment, which are directly linked to climate change.

She noted that the discussion on the interlinkages between climate change and human rights was institutionalized in 2009, when the Human Rights Council adopted a series of resolutions on climate change, and the issue of human rights entered the climate change agenda. She stressed that climate change is going to affect the enjoyment of all human rights and underscored the need to take into account human rights when designing measures to respond to climate change. using Indigenous rights as an example.

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She highlighted the development of the mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change established by the UN Human Rights Council at its 48th session in October 2021, with Ian Fry being the first to hold the role of the Special Rapporteur.

She stressed that the Paris Agreement was the first climate change agreement to recognize human rights, noting that it does so "in a half-hearted way." She offered insights on the development of the negotiations of the Paris Agreement, including its preamble that offers the human rights reference.



Figure 2. Annalisa Savaresi during her interview with Chris Spence.

Savaresi discussed regional responses, focusing on Europe. She addressed discussions in the European Parliament on climate refugees and underscored human rights instruments debating issues such as climate justice. She stressed that the European Court of Human Rights has numerous climate change cases brought by a variety of plaintiffs under the general assertion that states are not doing enough to address climate change, thus violating their human rights. She noted that while the outcome is uncertain, there are expectations that the Court will take a progressive stance. She described the Court's approach as "cautious and not radical," but yet influential in developing a jurisprudence across the member states of the Council of Europe, bringing forth positive change. She noted encouraging court decisions in the Netherlands, Germany, and Belgium supportive of climate applicants, basing their reasoning on human rights. She emphasized that similar developments may influence future decisions of the European Court of Human Rights.

Savaresi discussed her work on the intersection of human rights and environmental law, including collaboration with the International Union for Conservation of Nature towards a rights-based approach on conservation. She discussed relevant projects around the world and underscored that the research area on the intersection of human rights and environmental protection, including climate change is vibrant, leading to further considerations on due diligence and external impacts of climate action. She expressed concern that the task of implementing climate law and policy is often daunting but stressed that disregarding human rights aspects of climate action is not an option as the evidence shows that doing so is detrimental and counterproductive to the overall sustainability-related objectives.

On future developments, she highlighted discussions on loss and damage and climate refugees. She emphasized the need to enforce states' obligations, highlighting relevant court decisions, stressing that "this is just the start of the story where human rights will be more and more evoked" regarding those most affected by the impacts of climate change and in need of support. She lamented the oversimplification of social impacts of measures to address climate change, including wind farms, REDD+ (reducing emissions from deforestation and forest degradation, with the "plus" referring to the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries) and other initiatives. She stressed that the energy transition to renewable energy should be done in a fair way, leaving no one behind. She concluded, underscoring civil society's enthusiasm on the topic and the need and challenges for its meaningful engagement.

Saleem Huq, Director, International Centre for Climate Change and Development (ICCED), discussed how climate change affects human rights, in particular in developing states. He stressed that the links had not been recognized for a long time, but underscored the recent recognition that climate change driven from rich consumers in wealthy countries impacts poor people in vulnerable countries. He underscored that this gives rise to moral issues of injustice, highlighted by numerous institutions, including religious organizations. He emphasized that, irrespective of religious beliefs, opposing this unjust situation that constitutes a violation of the human rights of the most vulnerable is a moral imperative.

On the necessary responses, he distinguished between the global North that is creating the climate crisis and the global South that is suffering the bulk of consequences. Noting that this dichotomy is an undisputed fact, accepted by the countries that form the global North, which acknowledge their obligations, he focused on internal social divides both in poor and wealthy countries, emphasizing that climate impacts disproportionately affect the poorest and most vulnerable parts of the population. He stressed that the problem needs to be tackled in both the global and national levels.



Figure 3. Saleem Huq during his interview with Chris Spence

Huq discussed his scientific work at ICCAD and as lead author of the third, fourth, and fifth Global Assessment Reports of the Intergovernmental Panel on Climate Change (IPCC), focusing, among other things, on poor countries' adaptation to climate change. He further addressed his participation

and contributions in policy making during the negotiations under the UN Framework Convention on Climate Change (UNFCCC), noting he has attended every single one of the 27 meetings of the Conference of the Parties (COP).

Discussing policies at the national level, he emphasized that Bangladesh is recognized as one of the most vulnerable countries to climate change because of its large population accumulated in a small region, geographically vulnerable to cyclones and floods, and relatively poor with low capacity to adapt. He stressed that "the new story of Bangladesh is that we have been taking climate change more seriously than every other country in the world," except for small island states for which climate change poses an existential threat. He noted that decades of efforts to address vulnerabilities have galvanized initiatives focusing on locally led adaptation, working with the most vulnerable communities, and enabling them to be better prepared. He drew attention to the dichotomy between top-down and bottom-up adaptation efforts, noting the latter is slower but a better way to increase resilience to climate change impacts.

On the vision for the future, Huq emphasized that 2023 is "the first year of the new era of impacts of climate change." He highlighted the highest temperatures ever recorded in the first week of July 2023, stressing that things will get worse. He noted that "we can prevent the worst impacts by reducing our emissions, but we also have to deal with minimizing and addressing loss and damage." He noted that COP27 led to a decision to create a new fund for loss and damage, expressing hope that it will be operationalized in COP28. He emphasized that world leaders in COP28 need a different mindset, given observable climate change impacts and stressed the need for a human rights perspective. He concluded by reiterating the class distinction, as rich people are responsible for the climate change crisis, which primarily impacts poor people. He emphasized that world leaders have not fully grasped the severity of the problem, lamenting that "climate will give them the message," and stressed the need to galvanize global citizens, particularly youth, where the impetus for change lies.

In the ensuing discussion, Spence summarized key takeaway messages, including that human rights and climate change is a fast-moving field and, while there is a long game involved, developments have been rapid, driven by the necessity of the dramatic and profound impacts that climate change is already having. He stressed that actions are taking place at all levels, international, regional, national, and local, including bottom-up approaches.

Spence drew attention to the recent appointment of the UN Special Rapporteur on the promotion and protection of human rights in the context of climate change, Ian Fry and his ideas on the existence of a deficit in legal protection, particularly focusing on

people being displaced because of climate change impacts. Fry has also been advocating for the idea of a loss and damage fund, supporting countries affected by climate impacts. The idea, which was in principle agreed in Egypt at UNFCCC COP27 in November 2022, will be operationalized and the details will be fleshed out at COP28 in Dubai in December 2023. Fry has further suggested an additional protocol to the UNFCCC, which would focus on the status of refugees, with the idea of protecting the rights of people displaced across international borders due to climate change.



Figure 4. Chris Spence addressing his speech during the seminar.

During discussions, Spence addressed the involvement of civil society, including climate activism and how it could influence agenda setting and decision making. He drew attention to legal cases, including cases on just transition, opining that more research and understanding will be needed in the fast-moving field of climate-related litigation. He concluded by reflecting on the process of UN negotiations under the UNFCCC, discussing, among other things, climate change concerns affecting political and electoral processes, and influencing negotiating positions.

Kiara Worth, IISD, focused on the intersection between climate change, human rights, and power, sharing her insights from a decade of climate negotiations under the UNFCCC. She stressed that "the world is on fire," emphasizing that not only the projections about future temperature increases are bleak, but climate change impacts are evident in everyday life.

She outlined climate change impacts, including floods, storms, cyclones, sea-level rise, wildfires, water shortages, changes in weather patterns, impacting human rights through various pathways. She emphasized that climate change is severely impacting the whole spectrum of human rights across the board including civil and political rights, and economic, social, and cultural rights, stressing that "nearly every human right that you can think of, is impacted by climate change," leading to migration.

She underscored that climate change impacts are more devastating for the global South, which is not only geographically more vulnerable, but also has less resilience and adaptive capacity to respond to climate change impacts. She drew attention to the cases of Least Developed Countries (LDCs) and Small Island Developing States (SIDS), stressing

that their cases raise “interesting and difficult human-right-related questions,” including questions around forced migration due to sea-level rise.

Worth underscored that climate change is a matter of justice as “those that did the least to create climate change are those most impacted by it.” She noted that climate change is the result of centuries of social inequalities, fueled by a frenzy towards profit maximization, leading to huge power imbalances that are apparent across the globe but also within climate negotiations.

She focused on the concept of power, discussing the notion as production in terms of governance, and as domination, which constitutes the overriding view in modern societies. She underscored that, whatever the pathway, power is relative and is really about “the ability to control or influence the world in which we live,” which is linked to the control of resources. She discussed power as domination, noting that typically those in power use their resources to maintain the status quo, which keeps them in power, and discussed three dimensions in the power dynamics.

The first dimension addresses power through decision making, “the ability of A to get B to do what they want them to do whether they like it or not.” The second dimension discusses power as agenda-setting, preventing certain issues from being discussed in the first place. The third dimension, the more subtle one, discusses pathways for changing peoples’ ideology through socially structured patterns and behaviors, which prevents issues from arising in the discussion in the first place. This is linked to the Gramscian idea of cultural hegemony and the way that difference social forces lead to the engineering of consent by normalizing power imbalances that are at play.



Figure 5. Kiara Worth addressing her speech during the seminar.

Worth applied these three dimensions to the climate negotiations under the UNFCCC. On the first dimension, she discussed decision making and control of resources, focusing on greenhouse gas emissions, commitments to decrease them, including under the Paris Agreement, and the subsequent, factual increase in greenhouse gas emissions. She underscored that, during the negotiations, certain countries would reject scientific facts to protect their national interests, which shields the status quo. Refusing to meet the climate change goals, while continuing to heavily subsidize the fossil fuel industry is another reflection of trying to maintain the status quo and the same power structure.

On agenda setting, she used the example of loss and damage. She introduced the notion, stressing that expectations from developing countries are that those responsible for climate change would meet their obligations by providing the funds, not only to pursue adaptation but also as a matter of justice, recognizing inequalities. Worth stressed that loss and damage took many years to find its place in the agenda and its successful introduction in 2022 was largely due to the devastating impacts of the floods in Pakistan where 33 million people were impacted, which was impossible to ignore at the time of the negotiations at COP27.

She drew attention to the increasing concern over fossil fuel lobbying in climate negotiations. She noted that more than 700 fossil fuel lobbyists were in attendance at UNFCCC COP27, in particular during the high-level segment. She concluded discussing agenda setting and underscoring that mitigation-related issues, which are fundamental to address climate change, still struggle to find their way in the negotiating agenda.

Regarding ideology, Worth underscored that pinpointing underground beliefs is much more challenging. She emphasized a sense of hopelessness on how much change people not in power can bring about. She pointed towards control of information, social media, and knowledge, noting that much of the climate negotiations and data are inaccessible for the public, which particularly in an era of disinformation and false news, makes it even harder to attest what is reliable information. She stressed that ongoing conflicts around the world fuel a greater sense of disunity, emphasizing that in order to address climate change, “we have to recognize our fundamental unity; this is what addressing inequality is all about.”

She stressed the need to shape and transform the power dynamics at play to affect decision making. She used existing examples, including Barbados' prime minister Mia Mottley and her initiative towards building a global coalition of nations committed to overhaul the financial system and unleash trillions of dollars of investments to the climate frontlines, pointing to the need to transform global financial systems to build better adaptive capacities. She pointed to the need to focus on locally-led adaptation, shifting decision-making towards local people, increasing participation of marginalized groups, and building their capacity for adaptive change, which leads a shift in power dynamics.

Worth noted that having adopted a human-rights approach in the climate negotiations is important, but there is still room for improvement by embedding human rights in national policies and all development practices linked to implementation and to the necessary transition. She also pointed to individual everyday choices and the potential to “critically think how power dynamics exist in our own spaces and work

towards addressing them." She concluded that climate change is a matter of social justice and morality, and can only be addressed by shifting the power dynamics that drive it.



Figure 6. Asterios Tsioumanis (TIESS) facilitated the discussion.

The ensuing discussion focused on participation of the oil and gas industry at UNFCCC COP 28, which will take place in the United Arab Emirates, including potential controversy over the Presidency held by the head of the Abu Dhabi national oil company and arguments around potential conflict of interest. Participants further addressed the loss and damage fund and its operationalization, including concerns over not meeting other financial targets.

They further focused on: locally-led adaptation and how it is explicitly linked to the promotion of human rights by shifting power dynamics; the role of civil society in the negotiations, focusing on shaping the overriding ideology; and the importance of individual behavior and everyday choices, and their links to social stratification.





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