HUMAN RIGHTS, CLIMATE CHANGE AND INTERNATIONAL LAW

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*Presenter’s personal views, not necessarily reflecting those of the institution for which she works.
Human rights, climate change and international law: relevance for threatened island nations

- Prominence of HR in discussion of plight of small island states
- Relevance of ‘climate justice’
- Human rights law as a source of justifications for action
- Points of connection
- “Value added”
- Areas of disconnect
Initiatives linking human rights and climate change

- IACHR Inuit petition 2005
- Male’ Declaration on the Human Dimensions of Global Climate Change 2007
- Statement of Deputy High Commissioner Bali COP 2007
- UN Human Rights Council Resolutions
  - March 2008 and March 2009
  - March 2011 on HR and the environment
Research linking human rights and climate change

- International Council on Human Rights Policy
  - Human Rights and Climate Technology Policy (2011)
- OHCHR Study (2009)
- Mary Robinson Foundation — Climate Justice Initiative (2011)
- World Bank
Understanding the links between human rights and climate change

- (i) Climate change may impact the enjoyment of human rights
- (ii) Human rights obligations may be relevant to responses to climate change and to promoting ‘climate resilience’
- (iii) Measures to address climate change may themselves impact the realization of human rights
Why is this a human rights issue?

- Social and human impacts are clear
- Human rights impact?
  - Implications > enjoyment of rights protected under human rights law
  - Impacts borne disproportionately by those who are already vulnerable and likely increasing their vulnerability
  - Borne most by those least responsible for the problem
‘Value-added’ of HR approach to CC

- Accountability through focus on rights / duties
- Substantive standards - HR as legal baseline for approach to CC
- Procedural standards and emphasis on participation of those most affected
- Focus on vulnerable groups and non-discrimination
- Prioritizes human and social dimensions of climate change
- Human rights impact assessments
- Justice and fairness arguments; advocacy
Bases for Convergence

- Structural considerations underpinning international law
  - Presumption against conflict
  - Avoidance of ‘fragmentation in international law’
  - ILC proposal for ‘systematic integration’
- Convergence around obligations: States may be party to UNFCCC and HR treaties
- Convergence around principles:
  - Accountability – polluter pays; precautionary principle
  - Do no harm
  - Duty to cooperate
  - Equity and CBDR; Equality and HR norms of differentiation
Disconnects

- Causation
- Legal frameworks reflect a separate evolution
- Different objectives and goals HR treaties not designed to tackle this type of harm
- Forward looking vs. retrospective view of harm
- Horizontal (state-state) vs. vertical application (states -citizens)
- Global burden sharing and cooperation for collective problem vs. individual complaints and redress
Potential Implications / Uses

- Legal remedies? Procedural or Substantive
- Political action
- Moral and ethical arguments
- Advocacy
- Policy
  - Focus on adaptation
  - Principle of do no harm
  - HR law obligations as minimum baseline
  - Human rights impact assessments
Thank you

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