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Call for Inputs: Climate Change and Human Rights: A Safe Climate

Sara L. Seck

Lisa Benjamin

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**Call for Inputs:
Climate Change and Human Rights: a Safe Climate**

There is now global agreement that human rights norms apply to the full spectrum of environmental issues, including climate change. The previous Special Rapporteur on human rights and the environment, Mr. John Knox, developed [Framework Principles](#) on Human Rights and the Environment that set forth three sets of duties that engage both States and businesses: procedural obligations; substantive obligations; and obligations relating to those in vulnerable situations.

The current Special Rapporteur on human rights and the environment, Mr. David Boyd, is working to provide additional clarity regarding the substantive obligations relating to a range of elements that are essential to the enjoyment of a safe, clean, healthy and sustainable environment. His first report to the Human Rights Council addressed air pollution and associated obligations. He is now preparing a thematic report focusing on human rights obligations related to global climate change. For that purpose, he is seeking inputs on the topic from States and stakeholders through responses to the brief questionnaire below.

Your replies will inform the Special Rapporteur's analysis and contribute to his report, which will be presented to the **General Assembly** in October 2019.

Questionnaire submission by:

Sara L Seck, Associate Professor, Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University, Nova Scotia Canada Sara.Seck@dal.ca

And

Lisa Benjamin, post-doctoral fellow, Marine & Environmental Law Institute, Schulich School of Law, Dalhousie University, Nova Scotia Canada Lisa.Benjamin@dal.ca

The Special Rapporteur invites and welcomes your answers to the following questions:

1. Please provide examples of ways in which climate change is already having adverse impacts on the human rights of people within your State. Adversely affected rights could include, among others, the rights to life, health, water, adequate sanitation, food, culture, housing, property, self-determination, non-discrimination, a healthy and sustainable environment, and Indigenous rights.

The most significant adverse impacts of climate change on human rights to date within Canada have been well expressed in the Inuit Climate Change petition to the Interamerican Commission on Human Rights and need not be repeated here except to add that more generally, Indigenous communities in Canada are often particularly vulnerable to human rights impacts of climate change arising from violations of a range of rights including the impact of climate change on self-determination. Canadian youth

plaintiffs in Quebec have more recently brought an action against the federal and provincial government claiming government inaction is a violation of their rights, including rights to life, and a healthy and sustainable environment, a concern shared by other youth in Canada.

Climate change within Canada has differential impacts across the country. For example, in Atlantic Canada, the negative impacts of sea-level rise are being felt directly by coastal communities, while climate impacts on fisheries are also unfolding. Rights to housing and food, among others, are at risk.

Consideration of climate change from a Canadian perspective must, however, also consider the impact of disproportionate per capita and historic Canadian emissions (whether by the state or attributable to the state as conduct of non-state actors, including Canadian corporate actors, for example) on vulnerable peoples around the world.

In The Bahamas, displacement of entire communities on islands such as Long Island, Crooked Island and Ragged Island due to extreme event is already occurring particularly due to the more extreme Atlantic hurricane seasons. Government budgets can no longer extend to rebuilding and recovery efforts. Rights to life, health, water, adequate sanitation, food, culture, housing, property, and self-determination are all being adversely affected.

2. Given that “[urgent, effective and ambitious action](#)” to ensure a safe climate is essential to protecting a wide range of human rights, what are the specific obligations of States and businesses in terms of addressing the main drivers of climate change (e.g. greenhouse gas emissions, deforestation, industrial agriculture)?

It is crucially important that consideration is given to the relationship between the obligations of States and the obligations of businesses, following the protect, respect, remedy framework of the UN Guiding Principles on Business and Human Rights.

States must understand that their human rights obligations in the context of climate change must be to protect the climate system so as not to undermine the ability of people both within and outside of Canada to enjoy all their human rights including rights to life, food, self-determination, and a healthy and safe environment. This can only be realized if States take seriously the need to quickly transition to carbon neutral economies, recognizing the importance of a just transition for workers currently dependent upon fossil fuel intensive industrial sectors balanced with the considerable harm and injury to human rights that are/will be experienced by their own nationals as well as internationally vulnerable communities as a result of delayed emission reductions. Escalating human rights impacts related to climate change provide necessary and important context to existing legal expectations on States to ratchet up their ambition over time under the Paris Agreement. Therefore the duty to protect is combined with the

legal expectations under the Paris Agreement on States to implement climate action.

There are several challenges. In a federal system such as Canada it is frequently the case that federal, provincial, municipal, territorial, and Indigenous governments are not all of one view in their commitments to climate mitigation, and so work at cross-purposes. It is also evident that when this happens, it is as a result of pressure from (at least some) carbon intensive industry players that fail to understand their own independent obligations as businesses to respect human rights – that is, to do no harm, including harm arising from greenhouse gas emissions associated with their products, processes, or business relationships. It is also disturbing to see that some governments within Canada are intending to target members of the environmental community so as to discourage them from speaking out about climate change harms, thus infringing on rights to freedom of expression and public participation in environmental decision-making (even if rights to environmental information are not undermined which they may be).

The business responsibility to respect human rights under the UN Guiding Principles is independent of the state duty to protect, even as it is interdependent. While some states are implementing legislation that would require business to conduct human rights due diligence processes, the lack of such legislation does not mean that businesses are free to do as they please. The independent responsibility of businesses as organs of society is at a minimum to respect human rights, including human rights impacted by climate change. Businesses must adopt human rights policies, conduct human rights due diligence, remedy human rights violations for which they are directly responsible, and work to influence other actors to respect human rights where relationships of leverage exist. From the perspective of human rights and climate change, this means that businesses that are fossil fuel intensive must work towards carbon neutrality as quickly as possible, including through transformation from fossil fuel to green energy company as others have done. This is highlighted by the Principles on Climate Obligations of Enterprises which chart legal obligations for both investors and enterprises on climate change, with a focus on fossil fuel enterprises having the most pressing obligations. In order to do this, businesses must both calculate their own emissions but also connect their emissions (including historic emissions for fossil fuel intensive carbon majors) to global emissions and therefore to human rights harms caused by global climate change. It is at this higher level of causality that obligations to conduct human rights due diligence and remedy human rights violations should take a broader, more holistic view of climate related human rights. Most crucially, the business responsibility to respect rights means that businesses must not undermine the ability of states to meet their own obligations, and must seek to become champions of human rights even when operating in states or subnational jurisdictions with governments that are failing to protect human rights from climate change.

Carbon pricing, including internal carbon pricing that applies irrespective of state carbon tax or cap & trade systems, is a tool that many fossil fuel intensive industry

players are adopting. Yet carbon pricing is ineffective at reducing emissions if the price is too low, and fails to meet the polluter pays principle if the revenues are not put towards remedying climate harms. The business responsibility to respect human rights, including rights to access remedy, aligns with the polluter pays principle in demanding that those businesses that have damaged the climate system have a responsibility to remedy these harms

3. Please provide examples of good practices in preventing, reducing, or eliminating the adverse impacts of climate change on human rights. Specific examples could include legislation, regulations, standards, policies, investments, and programmes in relation to climate change mitigation and/or adaptation. These examples may occur at the international, national, sub-national, or local level. Examples could involve:

- research and monitoring;
- guaranteeing procedural rights (e.g. access to climate change information, public participation in decision-making about climate change, access to justice and remedies);
- eliminating subsidies for fossil fuel production and use; climate change legislation, regulations, standards, and policies;
- initiatives to reduce greenhouse gas emissions from specific sectors (e.g. electricity generation, industry, government, transportation, agriculture, waste management);
- laws, policies and programs to protect vulnerable populations from climate change;
- laws, policies, or programs to concurrently address climate change and air pollution (e.g. programs promoting clean fuels and stoves for cooking and heating); and
- effective enforcement of rules governing greenhouse gas emissions, deforestation, and industrial agriculture.

4. If your State has set a deadline for eliminating coal-fired electricity generation and/or ending the sale of motor vehicles with internal combustion engines, please provide details. If your State imposes a price on carbon emissions, please provide details.

The Pan-Canadian Framework on Clean Growth and Climate Change allows provinces within Canada to set a carbon pricing or trading system and provides a benchmark for pricing carbon pollution, including a set of principles which include that carbon pricing should apply to a broad set of emission sources, be timely to minimize investments in stranded assets and increase in a gradual and predictable way.

5. Please provide evidence related to the implementation, enforcement, and effectiveness of the measures identified in your responses to Questions #3 and 4. This could include information related to budgets (e.g. investments in renewable energy or revenues generated by carbon taxes), human resources (size of agencies responsible for environmental monitoring and enforcement), and measurable outcomes such as

reductions in greenhouse gas emissions, declining rates of deforestation, or increases in the area reforested/numbers of trees planted.

6. What are ways in which high-income States should assist low-income States in responding to climate change, while simultaneously contributing to sustainable development in those low-income States?

Finance and nationally appropriate technology transfer can assist low-income States. Private sources of funding could be collected by the high-income State connected to a carbon tax or levy on fossil fuel intensive corporations and contribute to the Green Climate Fund, WIM or a specific loss and damage funding mechanism which could fund adaptation and recovery efforts as well as a displacement and migration in and from low-income States. Data collection and dissemination as well as capacity and institutional building within low-income States should be funded.

7. What are the main challenges or barriers that your government, business, or organization has faced in attempting to address the impacts of climate change on human rights?

See #2 above.

8. What are ways in which additional protection is provided (or should be provided) for populations who may find themselves in circumstances in which they are particularly vulnerable to climate change (e.g. women, children, persons living in poverty, Indigenous peoples and members of traditional communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons)? What are ways in which these populations can be empowered to act as agents of change in addressing climate change?

Climate policies can often be combined with disaster reduction and management policies so they interlink, and both elements should include a focus on vulnerable populations. For example, a vulnerability lens should be adopted when revising and assessing policies. This means, for example, that gender circumstances such as increased violence or childcare duties post-disaster should be catered for by policies, and specific data on the impacts of climate change on vulnerable communities should be collected and should drive policy formation. Communities should participate fully in the design and implementation of these policies, particularly vulnerable constituents of communities and traditional knowledge should be incorporated. Community consultations should take place at hours of the day which accommodate the schedules and practices of these communities.

9. How do you ensure that the rights of individuals working on climate change (environmental human rights defenders) are protected? What efforts has your

Government or business made to create a safe and enabling environment for them to freely exercise their rights without fear of violence, intimidation, harassment or reprisal?

See above #2. Businesses must become champions of environmental human rights defenders especially when operating in states that are violating rights.

10. For businesses, what policies or practices are in place to ensure that your activities, products, and services (extraction/sourcing, manufacturing, distribution, sale, and end-of-life management) minimize climate change impacts and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

See commitments by select members of global mining community to carbon neutrality.

Submission of responses

We strongly encourage you to please send your responses to the questionnaire in Word format by email to srenvironment@ohchr.org.

Submissions will also be accepted via regular mail at the following address:

UN Special Rapporteur on human rights and the environment

Thematic Engagement, Special Procedures and Right to Development

DivisionUNOG-OHCHRCH-1211 Geneva 10, Switzerland

We kindly request that your submission be concise and limited to a maximum of 5 pages (or 2,500 words), not including appendices or attachments. Due to a limited capacity for translation, we also request that your inputs be submitted in English, French, or Spanish.

To avoid unnecessary duplication: if you have recently replied to other questionnaires from UN human rights mechanisms (or other international bodies) with information that would be relevant to this request as well, we welcome your directing us to those replies.

The deadline for submission is 8 June, 2019.

Unless otherwise requested, all submissions will be made publicly available and posted on the Special Rapporteur's homepage at the OHCHR website.