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“Guaranteeing right-based climate policies to secure the rights of the most vulnerable” SB38 Side Event report

Overseas Environmental Cooperation Center, Japan (OECC)
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This is a report of a side event held at the 38th Session of the Subsidiary Bodies of the UNFCCC from June 3rd to 14th 2013, in Bonn, Germany.

- Title : “Guaranteeing right-based climate policies to secure the rights of the most vulnerable”
- Date : 13:15 - 14:45, Thursday, June 13, 2013
- Organizer(s) : University of Lapland
- Venue : Room Metro at the Ministry of Transport of Germany
- Presenter : Sébastien Duyck (University of Lapland)
- Abstract The Cancun Agreements made an important contribution in emphasizing the need for all countries to respect human rights when addressing climate change. This panel explores opportunities to further implement a rights-based approach within the current and future climate regime.

Summary

- The side event was conducted in a round-table format, facilitated by Sébastien Duyck from the University of Lapland. He stated in his opening remarks that the Human Rights & Climate Change Working Group was established a few years ago by a group of lawyers concerned about the connections between human rights and climate change. Below are some of the highlights of the discussions among the participants.
- A participant from Zambia highlighted mining activities currently going on in the country, which are causing devastating impacts on the pristine ecosystems. Multinational corporations from different countries, including Australia, Canada and China, are pushing forward these mining activities. As a result of the environmental degradation, Zambia is becoming increasingly vulnerable to natural hazards, such as floods; and the livelihoods of impoverished people are very acutely affected.
- A participant from an indigenous group highlighted that the rights of indigenous peoples

are enshrined by a number of UN resolutions and decisions, including COP decisions under the UNFCCC. She called for a human-rights based approach in global policy making to combat climate change, intergenerational transmission of traditional and indigenous knowledge, and mainstreaming gender perspectives into the intergovernmental process at the UNFCCC.

- An unidentified participant discussed the issue of equity in the context of climate change. She stated that although the intergenerational and geographical aspects of equity tend to be highlighted at the UNFCCC, the tremendous gender inequalities that exist within each country should not be downplayed. According to her, the UNFCCC has three equity-related principles: the precautionary principle, CBDR, and sustainable development. She underscored the importance of integrating the non-discrimination principle derived from human rights law into the international discussions at the UNFCCC. The non-discrimination principle would provide guidance to addressing many gender inequality issues; one example would be the practice of monoculture that is being promoted around the world to grow biofuel crops in an efficient manner. This practice, she argued, is disproportionately affecting women because they tend to rely more heavily on the natural ecosystems than men for their livelihoods. Also, when it comes to means of implementation, the UNFCCC should make sure that finance, technology and capacity building benefit women as well as men in accordance with the non-discrimination principle.

- A human rights lawyer discussed the UNFCCC from the perspective of international human rights law with a particular focus on discussions on climate change and human rights at the UN Human Rights Council (HRC) in Geneva, Switzerland. He reminded the participants of the fact that the UNFCCC is an international treaty, which is one of the most important sources of international law (the other important source being customary law). The HRC just adopted its fourth resolution on climate change and human rights, urging states to fully assume the responsibilities set forth by Article 3 of the UNFCCC. He noted there are many different definitions of equity in the world, but equity in the context of the UNFCCC should be interpreted to mean that developed states have greater responsibilities to tackle climate change (because of CBDR). He maintained that any developed state that fails to respect this equity principle violates both the UNFCCC and international human rights law from the point of view of state responsibility. For example, should Annex I countries fail to achieve the two-degree goal, the increased temperatures could trigger significant health hazards and premature deaths around the

world. In such case, Annex I countries should be held accountable for that. Also, he suggested that Article 2 (objective) and Article 3 (principles) of the UNFCCC be used as criteria to judge if mechanisms under the convention (e.g. the CDM) are operated in accordance with the spirit of the convention itself.

- A participant from the Women's Environment and Development Organization (WEDO) discussed gender-sensitive human rights approaches in international climate change policy. She noted the key difference between a reactive (or passive) human rights approach and a more proactive one, and highlighted the importance of promoting the latter. She also announced that the WEDO just published a report titled, "Getting Gender right in the REDD+ Social and Environmental Standards."
- A representative from a Panamanian indigenous group harshly condemned the intergovernmental process at the UNFCCC. He maintained that the decisions taken at the COPs do not necessarily take into account the plight of indigenous peoples around the globe. To illustrate his point, he took the CDM and the REDD+ as examples. He stated that two hydroelectric dams are being constructed in Panama as part of CDM projects, displacing indigenous people and devastating their livelihoods. As for the REDD+, he accused it of being a "false" solution devised by ostensibly benign developed countries, which would end up further impoverishing the poor in developing countries, instead of eradicating poverty.

■ Q&A

Q. (Unidentified): Developed states are responsible for loss and damage in developing countries particularly vulnerable to climate change. Would that mean that developed states are obliged to compensate for it by providing funding to the Green Climate Fund?

A. (The above-mentioned human rights lawyer): Monetary compensation is only one of the ways to fulfill their obligations.

Q. (Unidentified): Which international treaties explicitly recognize the connections between human rights and climate change?

A. (The same human rights lawyer): The 1948 Universal Declaration on Human Rights is considered to have become customary international law. Also, the Rio Conventions are good sources of information. In regard to the right to health, we can look at treaties of the WHO.



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Q. (Unidentified): Most of the negotiators see the human rights discourse more as a threat than opportunities. How would it be possible to change their perspective?

A. (Unidentified): We could use human rights as a normative tool to raise mitigation ambition.

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English:

http://www.mmechanisms.org/e/relation/details_oecc_SB38report.html