

# Submission of Chile on behalf of AILAC to the ADP on Human Rights and Climate Change

Chile, on behalf of AILAC, presents this submission in support of the inclusion of Human Rights language in the text of the Paris Agreement.

This submission follows up on the introduction of human rights language in the negotiation text that was approved in the 2-8 session of the ADP in Geneva in February 2015. It further elaborates on the rationale that support keeping and strengthening that human rights language in the Paris Agreement.

## Introduction

There is a clear connection between Climate Change and Human Rights. Environmental damage and the consequences of climate change has multiple negative effects on the livelihood of people. These negative impacts affect with particular force those groups commonly identified as the most vulnerable, owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability. The inequity resulting from the impact on these people is aggravated by the fact that they bear the smallest share of responsibility in causing climate change.

From this perspective, disturbances of climate patterns contribute directly to deepen social inequalities, both within and among countries. In order to confront the inequity and other negative impacts of climate change, a climate justice approach uses human rights standards and commitments to inform climate policies and ensure a people-centred approach to climate action.

Climate justice is based on the fact that climate change affects in a more intense manner to the most vulnerable and less advantaged social groups, who are also less capable to face events such as droughts, floods, hurricanes and sea-level rise. This non-punitive, non-judicial concept is based on the recognition that climate change contributes to deepen inequalities both within countries and among them, and that public policies need to consider and address this reality.

Climate actions that benefit people and protect their rights will garner broad support from society and help to maximize ambitious actions to keep warming below 1.5 or 2°C.

In our vision the Paris Agreement should recognize the connections between human rights and climate change, and enable Parties to collectively commit to work towards concrete climate actions that fully protect and respect internationally recognized human rights. Responding to the challenge of climate change requires cooperative action by all countries and communities to stabilize the climate and promote inclusive sustainable development.

At the same time, protection and promotion of Human Rights can be a virtuous tool in combating climate change. Measures adopted toward the full enjoyment of human rights such as the rights to food, safe drinking water, sanitation, health, housing and a healthy environment lead to more effective climate change outcomes, while also combating the negative consequences of climate change on those rights. The virtuous cycle that arises when human rights guide climate change policies also enhance the ability of States and communities to adapt to the immediate effects of insufficient climate action.

#### Human Rights and the Convention

Although the Convention does not contain specific references to human rights, its objective as expressed in article 2 seeks to protect the climate in order to ‘ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner’. These are both people-centred goals and relate to the right to food and the right to development. Article 3.1 on protecting the climate system for the benefit of present and future generations points in the same direction.

In more recent times, Parties to the Convention have adopted important decisions that address the strong linkage between human rights and climate change.

Decision 1/CP.16 states that “Parties should, in all climate change related actions, fully respect human rights”. The same decision notes the Resolution of the United Nations Human Rights Council on human rights and climate change, “which recognizes that the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability”

Parties have addressed the need to protect and promote specific human rights in other instances. For example:

- 5/CP.17 on National Adaptation Plans, by which adaptation to climate change “should follow a country-driven, gender-sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional and indigenous knowledge, and by gender-sensitive approaches”.
- 3/CP.18 on Loss and Damage, recognizes the need to further work to advance the understanding of how the adverse effects of climate change affects those segments of the population that are already vulnerable.
- 18/CP.20, which establishes a two-year programme for promoting gender balance and achieving gender-responsive climate policy.
- REDD+ safeguards, that deal with crucial issues such as transparency, rights of indigenous peoples and stakeholder participation.
- The Green Climate Fund has also made important contributions. On decision 3/CP.17 on the launching of the Fund, the Conference of the Parties indicated that one of the functions of the Fund is to develop environmental and social safeguards internationally accepted. Other relevant decisions taken by the Fund are GCF/B.09/10 on the 2015-2017 Gender Policy and Action Plan; GCF/B.07/02, on social safeguards policy (following the mandate received from the above mentioned COP Decision 3/CP.17), which includes specific references to human rights, labour conditions, indigenous peoples, community health and cultural heritage.

The inclusion of human rights language also should be seen as an implementation of specific provisions of the Convention, in particular articles that deal with Parties’ consideration of climate change in their social policies and to minimize its adverse effects on public health (Article 4.1 f)), or public awareness and participation in climate policies (Article 4.1 (i) and Article 6, (a) (iii)).

#### The need for a new approach to human rights in climate negotiations

These references reflect a growing interest by Parties to integrate human rights language in climate change regime. They also provide a basis upon which human rights language can be introduced in the Paris Agreement, both in respect of foundational and operational principles.

There is a clear need for the Paris Agreement to reflect the important developments in the international community's understanding of the linkages between human rights and climate change. While there have been references to human rights in the negotiations under the UNFCCC, the treatment of human rights and climate change requires further elaboration and explicit textual support in the Paris Agreement.

The United Nations Human Rights Council has produced specific documents, such as Resolutions 7/23, 10/4 and 26/27 where Climate change is identified as a global phenomenon that undermines human rights, especially those of the most vulnerable.

In October 2014, 28 special rapporteurs and independent experts (known as Special Procedures) of the Human Rights Council wrote an open letter to the Parties to the UNFCCC emphasizing that climate change threatens to undermine the protection of human rights, and that the UNFCCC has a crucial role in effectively protecting human rights for all. Therefore, the special rapporteurs called on State Parties:

“...to include language in the 2015 climate agreement that provides that the Parties shall, in all climate change related actions, respect, protect, promote, and fulfill human rights for all”

A first step in this direction would be to align multilateral agreements under UNFCCC with Parties' international human rights obligations. This integrated vision would enable Parties to comply with their human rights obligations, including by incorporating a human rights approach in their nationally-determined environmental and climate policies.

### Human Rights in the Paris Agreement

As noted above, while there are several examples of rights-related language developed by the Conference of the Parties, there remains a critical gap and need to elaborate language on foundational and operational principles that clearly connect climate change action to human rights promotion and protection.

In our view, the Paris Agreement presents a crucial opportunity to ensure that climate policies and actions are informed by and grounded in existing human rights obligations to maximize the effectiveness of the actions and the benefits to people and the planet.

Consequently, the Paris Agreement should include language explicitly recognizing that:

a) There is a strong connection between climate change and human rights. Insufficient mitigation efforts will lead to climate impacts that will undermine human rights. Environmental degradation, loss and damage and insufficient adaptation measures can all seriously and negatively undermine living conditions and the fundamental rights of people, and particularly of the most vulnerable.

b) Adaptation and loss and damage are at the forefront of the climate change and human rights connection, and therefore they should be recognized as areas where immediate action should be taken in protection of human rights.

c) Human rights should be introduced as a cross-cutting element in the Paris Agreement. Accordingly,

(i) Human rights should be incorporated in general sections (Preamble and General/Objective)

(ii) Parties should also consider further language to be included in key sections such as adaptation

(iii) Parties should continue addressing human rights in UNFCCC discussions beyond the Paris Agreement, so guidance is provided to Parties in order to facilitate the promotion and protection of human rights in their national climate policies.