HUMAN RIGHTS ARE THE KEY TO PEACEFUL, RESILIENT SOCIETIES

Climate change can contribute to declines in social relations as well as economic and development opportunities—potentially adding to existing conflict stressors. Breaking this link is critical for prosperity. By making human rights a cornerstone of adaptation, policy makers can help ensure that adaptation actions do not inadvertently increase vulnerability and inequity, by privileging one group over the other or by reducing human wellbeing.

Both climate change and conflict gnaw away at livelihoods and wellbeing, as well as the potential people have to improve their circumstances whether this is through development or adaptation. Where conflict and climate change occur together, the social costs are likely to be severe.

Under climate change there is the risk that cycles of decline will set in and development gains will be lost. Impacts on infrastructure (including for trade and food distribution) from hazardous events, reduced state capacity, price fluctuations from energy policy, uncertain yield levels, increases in poverty, and declines in social relations and cohesion could affect the enjoyment of human rights to food and water and simultaneously increase inequity and a sense of injustice.

Where nations lack the mechanisms to build consensus and inclusion, the potential for conflict could increase. Citizen frustrations at being unable to secure their basic needs has already led to civil unrest, which at times have turned violent. In Mozambique, we have witnessed conflict around food prices while in South Africa the lack of economic opportunity has contributed to clashes with foreign workers from neighbouring countries and growing protests around service delivery including water. Conflict, in turn, creates development setbacks. For example, agricultural and food production levels in per capita terms are on average ten percent lower during conflict and in the five years after the conflict, than in the five years before conflict. As Graça Machel has warned, “No low income developing country in conflict, has achieved one of the MDG.”

Adaptation policy could make these realities worse, especially where strategies make one group better off at the expense of others. For example, water policies might favour large-scale agriculture and urban communities by prioritizing large dam construction over the maintenance of access to water for pastoral people and small-scale food producers.

The global community first adopted Human Rights to protect the most vulnerable people, especially from the abuse of power. Under climate change, human rights can be an effective tool for ensuring that negative impacts are not felt disproportionately by the most marginalized and vulnerable communities. Human rights can also be used to ensure that adaptation decisions are not only procedurally fair, but also just.

RECOMMENDATIONS

- Use human rights as a benchmark for decision-making to help avoid increasing food and water insecurity and vulnerability.
- Recognize the rights of citizens and indigenous people to participate in development planning to ensure decisions are fair and equitable.
- Strengthen land and natural resource tenure to help address historical conflicts, improve shelter conditions, reduce social exclusion, improve access to services, and the general eradication of poverty.
- Go beyond recognizing rights in law and identify how to fulfil them to a greater extent by including them in policy and practice.
Both conflict and climate change pose threats to development by reducing opportunities and driving up inequities. Climate change is already affecting the enjoyment of:

- the right to life
- rights to food and water
- secure settlement
- land and resource rights particularly of those who are economically marginalized and excluded from decision-making
- rights to education as children are forced to contribute to family incomes.

Which human rights apply to adaptation?

Adaptation practice and policy need to take account of two broad sets of human rights:

Substantive rights are concerned with the basic necessities of life that all people need to live with dignity. These rights include entitlements to benefits or services such as rights to food, water, life, movement, an adequate standard of living, and health. Substantive rights provide a basis for ensuring that policy and law do not reduce the wellbeing of the most vulnerable people. They help protect vulnerable people from policies that simply favour the rich, politically connected, and well-established. In addition, they provide for equality irrespective of race, sex, religious affiliation and age.

Procedural rights, on the other hand, are concerned with how decisions are made. Recognizing procedural rights can help ensure that decisions are fair and, where they don’t meet these requirements, that they can be contested. Procedural rights can be used to facilitate socially interactive processes that increase opportunities for consensus and the legitimacy of decisions. This is particularly important for making legitimate adaptation decisions, as such decisions often involve trade-offs. When used effectively, these rights can help transform relationships that have been plagued by conflict. An important development is the formal recognition by the UN in 2010 of the right to free prior and informed consent.

Human rights are not simply statements of intent. They create specific obligations for states to respect, protect and fulfil their provisions and on non-state actors to respect them:

- Respecting rights means refraining from interfering with the pursuit or enjoyment of rights.
- Protecting rights means ensuring that third parties (including businesses and non-governmental organizations) do not interfere with the pursuit or enjoyment of rights.
- Fulfiling rights means creating enabling environments for the realization of rights. Rights need to be provided where people cannot provide for themselves, but can be fulfilled progressively in line with available resources.

Free Prior and Informed Consent (FPIC)

Since the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, the global community has recognized the right of communities to participate in decision-making. The adoption of the United Nations Declaration on Rights of Indigenous People by the General Assembly formally recognizes the right of indigenous peoples to free prior and informed consent—that is, to give or withhold consent to proposed measures that affect them and thereby ensure that their livelihoods and values are not adversely affected. It is based on the fundamental rights of indigenous people, including the right to self-determination as provided for in the international covenants on Civil and Political Rights and Economic, Social and Cultural Rights, and the jurisprudence of the African Commission on Human and Peoples’ Rights (ACHPR). In 2003 the ACHPR affirmed the right of the Endorois pastoralists of Kenya to own their customary lands and to FPIC. The UN Declaration on the Right to Development and opinion of the UN Committee on the Elimination of Racial Discrimination provides the understanding that development choices cannot be used as justification for overriding this right.
How can we better recognize and fulfil human rights obligations in adaptation

Bringing rights to the centre of decision-making as a benchmark can support more effective adaptation.

Rights-based decision-making can reduce the significance of conflict triggers in adaptation. This requires taking account of the specific impacts that adaptation has on substantive rights as well as ensuring that procedural rights are protected. A first step is establishing how a decision will impact on vulnerable people—will it affect their food security, lead to a breakdown of social cohesion, or make access to water more difficult? The views of affected people are critical in understanding this (Brief 6: Rights Mapping).

Addressing this and other similar questions provides the basis for re-evaluating the adaptation agenda and placing people and their vulnerability at the centre of decision-making. One positive outcome of such a focus is the shift away from abstract overviews to a consideration of how specific people, in specific contexts, are affected. This is especially so where participatory rights are respected as well. In this sense a human-rights perspective encourages solutions that put equity, social relations and capacity first. Improving the use of human-rights tools and methodologies, such as human-rights mapping and integrated conflict assessment, can support decision-making.

Human rights and rights in international environmental law can help build key aspects of resilience and adaptive capacity

- Free prior informed consent
- Rights of internally displaced people
- Accountability & transparency
- Right to participation
- Self determination
- Access to information

- Land & resource tenure
- Rights to water, food, housing, property
- Right to life and to a clean, healthy environment
- Fair and equitable sharing
- Self determination

- Right of non-discrimination
- Rights of participation
- Right to dignity

- Access to justice
- The right to be heard
- Rights to compensation

Recognizing tenure rights must be a priority

Given the centrality of land and natural resource tenure to livelihoods, recognizing tenure rights is a vital component in reducing vulnerability and realizing food and water security. In recognition of this relationship, the United Nations Committee on World Food Security adopted global voluntary standards on tenure that encourage greater equity and equality.

The rights of informal titleholders, such as land tenants and customary land-users, tend to be difficult to enforce against those with formal rights, such as the state or private landowners. In the aftermath of floods and in times of conflict, informal titleholders struggle to regain access. Social disruption can make it even more difficult for these people to establish their title to the land in question. It is important for state agencies to provide for such eventualities by carefully mapping and recording legally and socially recognized tenure, including tenure layers or overlaps. Where this is not done in advance, then, as provided for in the Pinheiro Principles, this should be resolved prior to reconstruction or resettlement to avoid conflict.
Policy Pointers

Conflict, climate change and maladaptation threaten to increase the challenges of development and make it difficult for societies to build democracy and wellbeing.

Human-rights approaches can help address five conflict triggers—(i) how trade-offs are made; (ii) the distribution of opportunities, benefits and costs; (iii) disrupted social relations; (iv) the reduced capacity of states, social organizations, communities and households; and (v) extra-legal problem-solving, deepening long-term historical conflicts over land and natural resources—and reduce associated risks by improving benefits and opportunities for the most vulnerable people, reducing inequity, enhancing fairness, and encouraging problem solving and learning.

Legal rights are just one aspect of the "architecture of entitlements". Power and social relations as well as institutional systems are of critical importance. Multiple strategies to address inequality and inequity are needed.

Although many governments recognize human rights, there is often a gap between law and reality on the ground. Their impact is undermined by poor implementation, lack of capacity, insufficient incorporation of these rights within national law, as well as poor understanding among implementing agencies and rightsholders about the obligations and entitlements human rights create. Improving the use of human-rights tools and methodologies, such as human-rights mapping and impact assessment, is necessary to ensure human rights are not only recognized but fulfilled and protected.

Using rights as a barometer in decision-making can help put people and their vulnerability at the centre of adaptation policy and practice. One positive outcome of this is a shift away from abstract overviews to a consideration of how specific people, in specific contexts, are affected.

Human rights are the key to achieving stable and resilient societies because climate and conflict reduce the ability of people to enjoy their rights and that of governments to achieve them. Focusing on rights helps ensure that outcomes are fair and equitable, and provide the security and stability to address the development priorities of Africa and other developing regions.

Procedural rights do matter; they provide the opportunity for people to have their say in decisions that affect them and help ensure choices and decisions are fair and legitimate.

End Notes

1 UNDP 2009
2 Madzwamuse 2010
3 Campese 2009
4 Colchester 2010
5 ACHPR 2003
6 Colchester 2010
7 Mohamed-Katerere 2014
8 Food and Agricultural Organization of the United Nations 2012
9 Mitchell 2010; Gondo & Kyomuhendo 2011
10 Mitchell 2010
11 The UN Principles for Housing and Property Restitution for Refugees and Internally Displaced People
12 Kelly and Adger 2000: 330

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