



UiO • **PluriCourts** – The Legitimacy of the International Judiciary  
University of Oslo

# Climate change and human rights

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## Main elements

1. Human rights consequences of climate change
2. Mitigation and human rights
3. Adaptation and human rights
4. «Environmental justice»

## Climate change as affecting human rights

- Civil and political rights (UDHR, ICCPR, regional instruments)
  - Life, absence of inhuman and degrading treatment, private life, property
- Economic, social and cultural rights (UDHR, ICESCR, regional instruments)
  - Food, health, adequate standards of living, water, maintenance of culture (indigenous peoples), water (?)
- Collective rights (very limited formal recognition)
  - Poverty, indigenous community rights, environmental conditions

# Climate change and migration

- How to determine causal relationships?
  - Natural disaster related displacement is increasing significantly
  - Slower displacement processes constituting a main challenge «economic refugees»
- [The Kiribati case](#), clear causality!
  - Which options exist?
  - As the president's legal counsel, what would you propose?
- The international framework for response
  - The distinction between internal displacement and refugees / asylum seekers
  - The need for responses from international institutions – UNHCR, IOM

## Kiribati – responses

- Damage and compensation – who should pay, on what basis?
- Duty of other states to help out
  - Migrants, refugees
  - Internal migration vs. asylum seekers/refugees
- The duties of other countries – human rights between states
  - Funding schemes
  - Duty to contribute
  - Decisions on spending
  - The relevance of the UN Security Council
  - R2P as a parallel
  - Neighbouring countries' duty to be prepared for migration
  - Regional solutions(?)

## How to respond to human rights challenges within the climate change regime?

- There has generally been limited recognition of human rights aspects in the treaties
- Much focus on adverse effects in developing countries and for indigenous communities
  - Link to the CBDR principle, technological assistance and funding
  - How does it relate to the key issues of mitigation and adaptation?
- Multiple initiatives to integrate human rights perspectives in the climate change regime
  - [Office of the High Commissioner for Human Rights](#)
  - [Human Rights Council resolutions](#)

## For discussion 1

- Which are the main human rights implications of mitigation measures?
  - Producer country issues – degree of dependency on fossil fuel production and export, access to energy
  - Renewable energy production, e.g. hydropower – land use changes affecting peoples' livelihood
  - «Sinks»-related issues, e.g. reforestation – land use changes affecting peoples' livelihood
    - The role of free prior informed consent in the context of land use changes
  - Cost of and access to energy – direct and indirect consequences

## For discussion 2

- Which are the main human rights issues associated with adaptation?
  - Design of funding schemes associated with adaptation – which interests are given priority
  - Restrictions on the use of natural resources, e.g. establishment of protected areas, in order to increase resilience against negative effects
  - Land use change in order to prevent negative effects
    - The role of free prior informed consent in the context of restrictions on use of natural resources and land use changes
  - Effects of adaptation measures for costs of living

## For discussion 3

- How should we deal with the issue of climate change and human rights from a perspective of «environmental justice»?
  - Take into account the «ability to pay» when distributing burdens associated mitigation and adaptation measures
  - The «polluter pays principle»
  - The concept of «climate footprint»
  - Geographic allocation of emissions vs. geographic allocation of need and ability to adapt
  - International and domestic mitigation measures: One-sided focus on control of emissions – do we need more focus on producers of fossil fuel from the perspective of environmental justice?