

Ariranga G. Pillay

Abstract

This article focuses on the links between climate change and economic, social and cultural rights. The negative effects of climate change on the enjoyment of economic, social and cultural rights and some response measures (mitigation or adaptation policies) to address climate change are discussed. International human rights standards are outlined, especially the International Covenant on Economic, Social and Cultural Rights, which provide important safeguards for individuals and groups whose rights are affected by climate change, particularly vulnerable individuals and groups. The article furthermore addresses the role of the UN Committee on Economic, Social and Cultural Rights in the field of climate change and the legal obligations, national and international, of states and other actors.

A. Introduction

First, what is climate change? According to the United Nations Framework Convention on Climate Change (UNFCCC) –¹

climate change means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

This definition clarifies that the legal climate change framework addresses changes in climate caused by humans. The most relevant human activity affecting the climate is the emission of greenhouse gases into the atmosphere. Consequently, the ultimate objective of the climate change legal framework is to achieve “stabilization of greenhouse gas concentrations in

¹ Article 1 UNFCCC.

the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”²

B. Links between Climate Change and Economic, Social and Cultural Rights

The interdependence and interrelatedness of human rights and environmental protection is widely recognised these days. In 1972, the Declaration of the United Nations Conference on the Human Environment (the Stockholm Declaration) initially combined human rights and the environment in a particular provision. Principle 1 of the Stockholm Declaration states that there is “a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.”³

The Covenant on Economic, Social and Cultural Rights (hereinafter *the Covenant*), however, does not refer to a specific right to a safe and healthy environment but recognises “the intrinsic link between the environment and the realization of a range of human rights, such as the right to life, to health, to food, to water, and to housing”.⁴

The UN Committee on Economic, Social and Cultural Rights Committee (hereinafter *the Committee*) has clarified that the right to adequate food requires the adoption of “appropriate economic, environmental and social policies”⁵ and that the right to health

embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.⁶

The Committee has also defined the right to water as the right of everyone to sufficient, safe, acceptable, physically accessible and affordable water for

2 Article 2 UNFCCC.

3 1972 Stockholm Declaration on the Human Environment, text available at <http://www.unep.org/Documents/Multilingual/Default.asp?documentid=97&articleid=1503>, last accessed 10 December 2012.

4 UNHRC (2009:para. 18).

5 CESCR (1999:para. 4).

6 CESCR (2000: para. 4).

personal and domestic uses, such as drinking, food preparation and personal and household hygiene.⁷

It is to be noted that climate change, just like other causes of water stress, such as population growth, environmental degradation, poor water management, poverty and inequality, will exacerbate existing stresses on water resources and compound the problem of access to safe drinking water which is presently denied to an estimated 1.1 billion people globally and is a major cause of morbidity and disease.⁸

The right to adequate housing has been defined by the Committee as “the right to live somewhere in security, peace and dignity” and the core elements of this right include security of tenure, protection against forced evictions, availability of services, materials, facilities and infrastructure, affordability, habitability, accessibility, location and cultural adequacy.⁹

It is significant that until now only the African Commission on Human and Peoples’ Rights (hereinafter *the African Commission*) has protected “a right to a satisfactory environment” as specified in the African Charter of Human and Peoples’ Rights.¹⁰

In the Ogoni case, the applicants had claimed that certain oil companies had, through their extraction operations, caused environmental degradation and health problems to the people of Ogoniland in Nigeria in that toxic wastes had been disposed of and numerous avoidable oil spills had occurred near villages so that the region’s soil and water had been contaminated and poisoned.¹¹

According to the African Commission, the right to a general satisfactory environment imposes clear obligations upon a government requiring the state “to take reasonable and other measures to prevent pollution and ecological degradation, to promote conservation, and to secure an ecologically sustainable development and use of natural resources.”¹²

7 CESCR (2002: para. 2).

8 UNHRC (2009:para. 29).

9 CESCR (1991:paras 7 and 8).

10 Article 24 of the African Charter of Human and Peoples’ Rights provides for “the right to a general satisfactory environment”.

11 Orellana et al. (2010:13).

12 *The Social and Economic Rights Action Center and the Center for Economic and Social Rights v Nigeria*, African Commission on Human and Peoples’ Rights, Communication No. 155/96, 2001, para. 52, available at <http://www1.umn.edu/humanrts/africa/comcases/155-96.html>, last accessed 10 December 2012.

C. Negative Effects of Climate Change on the Enjoyment of Economic, Social and Cultural Rights

Climate-change-related impacts can affect human rights differently. While extreme weather events such as heat waves, floods, storms and droughts, initially, are of a direct nature as they cause immediate threats to the right to life and other human rights, they will also often have an indirect and gradual effect on human rights, such as increasing stress on health systems.¹³

The rights to food and water, for example, will also be affected as climate change reduces the supply and security of both while raising their costs. Furthermore, the right to adequate housing is seriously threatened. Rises in sea level, the flooding of coastal areas, as well as the increase of hazardous areas affect habitability and cause important internal relocation and displacement which will lead to a substantial increase in shelter needs but also requires people to be protected from forced evictions, without appropriate forms of legal or other assistance, including adequate consultation with affected persons.¹⁴

Climate change also impacts negatively on the right to culture of indigenous peoples since their climate-sensitive ways of life are affected by global warming “such as the loss of hunting opportunities for the Inuit or the loss of traditional territories for the pastoral, forest or coastal communities”.¹⁵

Climate change, as indicated already, poses a threat to the fulfilment of human rights but finding solutions to climate change may also threaten human rights.

Response strategies to address climate change are of two types:

- Mitigation aimed at minimising the extent of global warming by reducing emission levels and stabilising greenhouse gas concentrations in the atmosphere, such as building a dam for hydropower, reforestation or other land-use changes; and
- Adaptation aimed at strengthening the capacity of societies and ecosystems to cope with, and adapt to, climate change risks and impacts, such as switching to biofuels and shifting agricultural land use from food to fuel.¹⁶

13 UNHRC (2009:para. 18).

14 Orellana et al. (2010:5).

15 (ibid.).

16 UNHRC (2009:para. 12).

State-managed relocation or displacement of local communities from the lands they occupy for the purpose of building a dam, for example, may impact adversely on those communities and call for their effective participation in the decision-making process e.g. access to information, prior consultation, free and informed consent, compensation or suitable alternative accommodation and access to justice.¹⁷ Moreover, reforestation may involve interfering with the rights of indigenous peoples and forest dwellers and ensuring that land is not used for food production.¹⁸ Switching to biofuels and shifting agricultural land use from food to fuel are likely to increase food prices as has happened already and further worsen the plight of the hungry globally.

Since “climate change places an additional burden on the resources available to States, economic, social and cultural rights are likely to suffer”¹⁹, with state parties often citing climate-change related environmental degradations as causes for non-compliance with their legal obligations under the Covenant.

Those who bear the brunt of the adverse effects of climate change are undoubtedly those sections of the population which are already in a vulnerable position, namely women, children, older persons, persons with disabilities, indigenous peoples, internally displaced persons (IDPs), refugees and migrants.²⁰

For instance, it is estimated that 85% of people displaced by the devastating floods in Pakistan are women and children.²¹ According to UN figures, over 500,000 pregnant women have been affected by the floods which have

17 Orellana et al. (2010:6).

18 At the 16th Conference of the Parties (COP) to the UNFCCC in Cancun, Mexico, the parties also referred to indigenous communities in the context of issues relating to reducing emissions from deforestation and forest degradation in developing countries. As safeguards which should be promoted and supported, the parties, *inter alia*, acknowledged the respect for the knowledge and rights of indigenous peoples and members of local communities as well as their full and effective participation in relevant actions to reduce emissions from deforestation and forest degradation. See UNFCCC, Decision 1/CP.16 The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, 26, available at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>, last accessed 10 December 2012.

19 UNHRC (2009:para. 75).

20 (*ibid.*:para. 42).

21 GHWA (2010:14).

dramatically worsened health conditions in a country that has already one of the highest mortality rates in the world.²²

Moreover, a 2007 study of weather-related disasters in 141 countries provided conclusive evidence that gender differences in deaths from natural disasters are directly connected to women's economic and social rights.²³ Indeed women and children are 14 times more likely to die than men in a disaster.²⁴

The periodic report of a state party to the Covenant, namely Australia, impressively illustrates the concern the Committee had expressed and the recommendation it had made in 2009 in relation to the negative effects of climate change:²⁵

The Committee is concerned at the negative impact of climate change on the right to an adequate standard of living, including on the right to food and the right to water, affecting in particular indigenous peoples, in spite of the State party's recognition of the challenges imposed by climate change.

The Committee recommends that the State party take all the necessary and adequate measures to ensure the enjoyment of the right to food and of the right to affordable drinking water and sanitation, in particular by indigenous peoples, using a human-rights based approach, in line with the Committee's general comments No. 15(2002) on the right to water, No. 14 (2000) on the right to the highest attainable standard of health and No. 12 (1999) on the right to food. It also recommends that the State party intensifies its efforts to address issues of climate change, including through carbon reduction schemes. The State party is encouraged to reduce its greenhouse gas emissions and to take all the necessary and adequate measures to mitigate the adverse consequences of climate change, impacting the right to food and the right to water for indigenous peoples, and put in place effective mechanisms to guarantee consultation of affected Aboriginal and Torres Strait-Islander peoples, so to enable them to exercise their rights to an informed decision as well as to harness the potential of their traditional knowledge and culture in land management and conservation.

D. A Human Rights Approach to Climate Change

Although climate change is an ecological, economic and a political challenge, it is necessary to bring the human rights perspective of climate change to the centre of the climate change discussion, thus underscoring the fact that

22 UNFPA (2011).

23 Neumayer & Plümper (2007:4f.).

24 UN-Women (2012).

25 CESCR (2009:para. 27).

climate-change-related effects are felt not only by states and economies but, more importantly, by individuals and groups whose life and dignity are at stake.²⁶ Moreover, such individuals and groups are affected differently so that policy responses need to reflect such differences and target those who are most affected.

The adoption of a “human rights approach in preventing and responding to the adverse effects of climate change serves to empower individuals and groups, who should be perceived as active agents of change and not as passive victims”.²⁷ This underlines the importance of ensuring that human rights standards and principles “inform and strengthen policy measures in the area of climate change”.²⁸

A rights-based approach to climate change integrates, in essence, the norms, standards and principles of international human rights treaties and declarations into climate change strategies.²⁹ According to the Committee on Economic, Social and Cultural Rights in its Statement on Poverty, these norms, standards and principles consist of “the entire range of civil, cultural, economic, political and social rights and the right to development,”³⁰ and inform and shape policies and institutions aimed at addressing climate change and empower those affected by climate change by granting them entitlements or rights.

It is to be noted that what the Committee has stated in connection with poverty applies equally to climate change, with such modifications and adaptations as are necessary in the circumstances. Consequently, freedom from the effects of climate change is a legal entitlement or right, rather than a commodity or service provided on a charitable basis, and combating climate change becomes more than charity or welfare but a legal obligation.³¹

These entitlements or rights give rise to legal obligations on states, as primary duty-holders, which have ratified such treaties or subscribed to those declarations, to take concrete measures to respect, protect and fulfil those entitlements and to ensure that all those operating within their jurisdiction, including individuals, communities, civil society organisations and the private sector, do the same. The Committee has stressed, in this regard, that

26 See Kompass (2010:2).

27 UNHRC (2009:para. 94).

28 (ibid.:para. 95).

29 UNHRC (2010).

30 UNHRC (2001: para. 10).

31 With regard to the issue of poverty, see CESCR (2001:para. 14).

“rights and obligations demand accountability” and that international human rights law requires that “mechanisms of accountability must be accessible, transparent and effective”.³² Accountability requires that all duty-bearers, including states and non-state actors, such as international organisations, national human rights institutions, civil society organisations and the private sector, “are held to account for their conduct in relation to international human rights law”.³³

For instance, in the context of climate change, the Committee examines, in monitoring the progress achieved by state parties, whether adequate laws, policies, institutions, administrative procedures and practices and mechanisms of redress, which conform to the provisions of the Covenant and prevent third parties from abusing Covenant rights, have been adopted at the national level.³⁴

Moreover, appropriate indicators, disaggregated to reflect the condition of specially disadvantaged and marginalised individuals or groups among them, which have been identified by state parties, in terms of which they have set targets or benchmarks and time frames, will also enable the Committee to monitor the progress achieved by the state parties in addressing climate change and to recommend any remedial measures required.

In this regard, the Optional Protocol to the Covenant on Economic, Social and Cultural Rights (hereinafter *the Optional Protocol*), adopted by the UN General Assembly in 2008, which came into force on 5 May 2013 after ten state parties³⁵ had ratified it, provides for individual and group complaints at the international level in relation to any alleged violation of the Covenant rights. The Optional Protocol will, inter alia, enhance the international accountability of state parties by obliging them to fully live up to their international obligations and provide effective mechanisms of redress at the national level while giving to the Committee an opportunity of re-affirming not only the universality, indivisibility, interdependence and interrelatedness of all human rights but also the justiciability of economic, social and cultural

32 (ibid.).

33 (ibid.).

34 For more detail, see Orellana et al. (2010:20–24).

35 Namely Argentina, Bolivia, Bosnia and Herzegovina, Ecuador, El Salvador, Mongolia, Portugal, Slovakia, Spain, and Uruguay, see http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en, last accessed 28 May 2013.

rights and developing its own case-law in the area of all Covenant rights and climate change.

A human rights perspective to climate change is also grounded in the principles of equality and non-discrimination which are essential elements of international human rights law, including the Covenant.³⁶ States must irrespective of resource constraints, guarantee the principles of equality and non-discrimination in access to all economic, social and cultural rights.

Such principles call for abstentions from inequalities and discrimination which may take various forms, including explicit legal inequalities in status and entitlements, policies of indirect discrimination and deeply rooted exclusions and distinctions and also impose a duty on states to take positive steps to combat inequalities and discrimination by –

- reducing, for example, the structural disadvantages suffered by disadvantaged, marginalised or socially excluded individuals and groups e.g. women and girls, children, older persons, people with disabilities, indigenous peoples, IDPs, refugees and migrants; and
- giving appropriate preferential treatment in strategies to combat climate change to such individuals or groups that are unable, on grounds reasonably considered to be beyond their control, to realise, for example, the right to an adequate standard of living.

A human rights approach to climate change also requires that all those whose rights are affected by climate change or by measures taken to respond to climate change, including vulnerable individuals and groups, “participate in the relevant decision-making processes” i.e. the formulation, implementation and monitoring of policy measures to address climate change.³⁷ For example, adequate and meaningful consultation with affected people should precede decisions to relocate them away from hazardous zones.³⁸

If those right-holders are to participate effectively in those measures, they must, apart from being able to take part periodically in free and fair elections, have the right of association, the right of assembly, freedom of speech, the right to information and the right to enjoy at least basic levels of economic, social and cultural rights, such as access to basic medical care, essential

36 For the link between participation and poverty reduction, see UNHRC (2004:18).

37 (ibid.).

38 UNHRC (2009:para. 79).

drugs, basic shelter and housing and to compulsory primary education free of charge.³⁹

The interdependence and indivisibility of economic, social and cultural rights, on the one hand, and civil and political rights, on the other, as already mentioned, is thus recognised in a rights-based approach to climate change which, in essence, addresses climate change in such a way as to fulfil and further human rights and not to impair them.⁴⁰

E. Climate Change in the Work of the Committee

Reference has already been made to the Committee's General Comments 4, 12, 14 and 15, to its Statement on Poverty and to its concluding observations made in 2009 in respect of the periodic report of Australia.

Moreover, with regard to the displacement of people, as a result of climate change, the state parties to the Covenant must provide adequate safeguards and take appropriate measures, legislative or otherwise, to avoid forced evictions, the more so as "women, children, youth, older persons, indigenous peoples, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction."⁴¹

In its Statement on the World Food Crisis, adopted in May 2008, the Committee –⁴²

urges States parties to address the structural causes [of the food crisis] at the national and international levels, including by:... implementing strategies to combat global climate change that do not negatively affect the right to adequate food and freedom from hunger, but rather promote sustainable agriculture, as required by article 2 of the United Nations Framework Convention on Climate Change.

The Committee, in its General Comment No.14 on the right to the highest attainable standard of health, cited the Preamble and Article 3 of the United Nations Framework Convention on Climate Change as emerging interna-

39 See UNHRC (2004:19).

40 The indivisibility and interdependence has been stipulated more fundamentally in the United Nation's Vienna Declaration and Programme of Action, para. 5, text available at [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en), last accessed 28 May 2012.

41 CESCR (1997:para. 10).

42 CESCR (2008a:para. 13).

tional law and practice in relation to protective measures taken in relation to indigenous peoples, namely that –⁴³

development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.

In its General Comment No.15 on the right to water, the Committee spoke of certain obligations of state parties in relation to the right to water:⁴⁴

States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include: (a) reducing depletion of water resources through unsustainable extraction, diversion and damming; (b) reducing and eliminating contamination of watersheds and water-related eco-systems by substances such as radiation, harmful chemicals and human excreta; (c) monitoring water reserves; (d) ensuring that proposed developments do not interfere with access to adequate water; (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate change, desertification and increased soil salinity, deforestation and loss of biodiversity.

Finally, in its Statement in the context of the Rio+20 Conference on the green economy in the context of sustainable development and poverty eradication, adopted in May 2012, the Committee, in essence, emphasised the need to integrate the green economy in the broader concept of sustainable development with its close linkages with economic, social and cultural rights. In paragraph 6 of the Statement, the Committee underlined, *inter alia*:⁴⁵

- (a) the importance of international cooperation for the promotion of economic, social and cultural rights and sustainable development (art. 2, paragraph 1). In this regard, the Committee stresses the importance of raising official development assistance (ODA) contributions to 0.7 per cent of gross national income and ensuring that ODA promotes sustainable development by adopting a human rights-based approach to development;
- (b) the role of women in environmental conservation and proper use and management of natural resources, as well as the disproportionately negative impact and burden on women when natural resources are depleted and the environment is damaged (arts. 3 and 11, among other provisions of the Covenant);
- (c) the obligation to ensure a healthy working environment (art.7 (b));

43 CESCR (2000:para. 27).

44 CESCR (2002:para. 28).

45 CESCR (2012:para. 6).

(d) the obligation of a State party to avoid adverse environmental effects on the right to food of its population (art. 11, paragraph 2(a)) and, in particular, the need to fully assess the impacts of newly developed green technologies in the area of energy and in relation to access to food and water. The Committee also emphasizes the adverse implications for the right to food of cases of land grabbing and overexploitation of fisheries, which not only have detrimental effects on environmental sustainability but also gravely affect the livelihood of present and future generations;

(e) the need to conserve the natural habitat and sustainable uses of natural resources as elements of the enjoyment of the right to health (art. 12) and, in particular, access to safe and potable water and the prevention of water degradation and pollution that affect the right to health. Furthermore, the sanitation situation and the collection and disposal of hazardous waste not only have implications for the environment but can also potentially cause epidemics and waterborne diseases and thus negatively affect the right to health;

(f) the linkages between biodiversity conservation and (i) potential advances in pharmacology and medicine which are crucial to promote the right to health (art. 12), and (ii) the cultural rights of indigenous peoples and local communities, including the protection of their traditional knowledge rights (art. 15);

(g) the importance of carefully balancing the requirements of the green economy with obligations under the Covenant to respect, protect and fulfil the rights of forest dwellers and indigenous peoples to their ancestral lands and traditional culture and, in particular, deforestation measures taken without the prior informed consent of forest dwellers and indigenous peoples that directly affect their rights. The protection of their rights is deeply linked to the protection of the environment and their natural habitat, without which such communities are threatened with disappearance;

(h) the importance of States parties to the Covenant ensuring that development efforts meet the rights of the beneficiaries of development. In this context, in 2011, on the occasion of the twenty-fifth anniversary of the Declaration on the Right to Development, the Committee adopted a statement on the importance and relevance of the right to development (E/C.12/2011/2);

(i) the importance that States parties to the Covenant live up to their responsibility to ensure that the corporate sector observe the Rio principles as they bear on all the rights under the Covenant, as stressed by the Committee in its 2011 statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/C.12/2011/1).

F. Legal Obligations of States and other Actors

The legal obligations of state parties under the Covenant can provide effective protection to the vulnerable individuals or groups whose rights are particularly affected by climate change or by measures taken to respond to

climate change, namely women, children, older persons, persons with disabilities, indigenous peoples, IDPs, refugees and migrants.

These obligations of state parties include taking measures towards the full realisation of economic, social and cultural rights to the maximum extent of their available resources.⁴⁶ While the Covenant recognises that some aspects of economic, social and cultural rights may only be achieved progressively over time and allows for the setting of priorities among Covenant rights, in the course of progressive realisation or making trade-offs among those rights, in the light of social priorities and resource constraints, it also imposes obligations which require immediate implementation and do not admit of any trade-off.

For instance, “States parties must take deliberate, concrete and targeted measures, making the most efficient use of available resources, to move as expeditiously and effectively as possible towards the full realization of [Covenant] rights.”⁴⁷

Furthermore, states must guarantee the principles of equality and non-discrimination in access to economic, social and cultural rights, irrespective of resource constraints.⁴⁸

Finally, —⁴⁹

States parties have a minimum core obligation to ensure, with immediate effect, the satisfaction of, at the very least, minimum essential levels of each of the rights set out in the Covenant, even in situations of conflict, emergency and natural disaster, which they are then required to improve over time.

Core obligations do not permit any trade-off since they must be met as a priority and have a first call on the resources of those states. For example, the core content of the right to social security includes —⁵⁰

an obligation on the state party to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

The Committee underlines the fact that it is particularly incumbent on all those in a position to assist, including developed states and international

46 Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights.

47 UNHRC (2009:para. 76).

48 (ibid.).

49 (ibid.).

50 CESCR (2008b:para. 59).

organisations, to provide international assistance and cooperation, especially economic and technical, to enable developing countries to fulfil their core obligations, guaranteeing to the people of those countries no more than the minimum subsistence level necessary for survival and for living a life of dignity.⁵¹

If core obligations give rise to national responsibilities for all state parties to the Covenant, they engender international responsibilities for developed states and international organisations. Consequently, the core obligations corresponding to all the Covenant rights establish an international minimum threshold that all national and international developmental strategies, including strategies to address climate change, must respect.⁵²

Developed states and international organisations must assist developing countries to comply with all their core obligations and meet this international minimum threshold. Moreover, in this regard, developed states must, for example, support human rights-related development projects and ensure that their official development assistance (ODA) contributions amount to 0.7% of gross national income, as indicated already.

G. Conclusions

The following conclusions may be drawn: First, we are failing to properly address economic, social and cultural rights and climate change. For instance, the report on the Millennium Development Goals stated that 1.4 billion people are still living in extreme poverty while the number of people suffering from hunger reached one billion in 2009.⁵³ In 2009 global greenhouse gas emissions were 25% higher than they were in 2000 and 40% higher than they were in 1990 and yet the Kyoto Protocol aimed to reduce those emissions by 5% from 1990 levels by 2012.⁵⁴

Second, the non-fulfilment of economic, social and cultural rights will be made worse by climate change and the vulnerable individuals and groups who already have weak human rights protection are also most prone to climate change harms. The UN Development Programme forecasts, for in-

51 CESCR (2000:para. 45).

52 With regard to the issue of poverty, see UNHRC (2001:para. 17).

53 UN (2010:4).

54 See Humphreys (2010:1).

stance, that 600 million more people will be at risk of starving by 2080⁵⁵ while the World Food Programme (WFP) claims that global hunger levels rose in 2009 in spite of food being available.⁵⁶ Moreover, many people were unable to feed themselves not because they could not find food but because, according to WFP, they could not afford it and that “we are now living in a world where risk is the new normal.”⁵⁷

Third, people living in the least developed countries and small island states which have contributed least to global warming will be the worst affected.

Last but not least, fulfilling human rights and addressing climate change are two mutually reinforcing goals; in order to be able to do either, states need to do both.⁵⁸ This is precisely where the Committee comes in since it has the expertise and the necessary material at its disposal to monitor, in examining their periodic reports whether –

- state parties to the Covenant are fulfilling the economic, social and cultural rights of the people under their jurisdiction; and
- effective protection is provided in this regard to the vulnerable individuals or groups whose rights are particularly affected by climate change or by measures taken to respond to climate change, including women, children, older persons, persons with disabilities, indigenous peoples, IDP's, refugees and migrants.

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55 UNDP (2007:90) citing Warren et al. (2006).

56 World Food Programme (2010:4.).

57 (ibid.:2).

58 See Humphreys (2010:5).

- CESCR/United Nations Committee on Economic, Social and Cultural Rights, 1999, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment No. 12*, E/C.12/1999/5, available at <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>, last accessed 10 December 2012.
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