

**PROPOSED REVISIONS TO MAINTAIN AND STRENGTHEN  
HUMAN RIGHTS PROTECTIONS IN THE LCA TEXT**

**(REVISED 11 DECEMBER 2009)**

To protect the individuals, communities and peoples most vulnerable to climate change, we must ensure that human rights protections are integrated in the final agreement. The following analysis identifies human rights and rights-related language in the current version of the LCA negotiating text and associated non-papers; makes proposals to strengthen such language; and suggests additional language to respect, protect and promote human rights in the text. The proposed language (indicated by underlined text) is based on parties' existing human rights obligations and commitments.

**SHARED VISION**

Existing language in the shared vision explicitly recognizes that climate impacts have implications for the full and effective enjoyment of human rights. This language should be strengthened by referring to the link between the environment and human rights recognized in the Stockholm Declaration, itself referred to in the UNFCCC. The shared vision should also emphasize that a successful international climate framework must include effective mechanisms for participation at the local, national and international levels, thus reinforcing Article 6 of the UNFCCC and the Rio Declaration.

**Proposal 1: Replace Paragraph 17 of Shared Vision draft text of 9 December 2009**

~~17. Noting the resolution of the UN Human Rights Council (HRC/10/4) on human rights and climate change and the and that the adverse effects of climate change have a range of direct and indirect implications on the full and effective enjoyment of human rights—including the right to sustainable development, self-determination, statehood, life, the right of people not to be deprived of their own means of subsistence, the right to water and the right to live well—and are increasingly posing a risk to security and the survival, sovereignty and territorial integrity of States. Reaffirming that human beings have the 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,<sup>1</sup> and that the adverse effects of climate change have a range of direct and indirect implications for the full and effective enjoyment of human rights,<sup>2</sup> mitigation of and adaptation to climate change shall be undertaken in a manner that respects, protects and promotes full and effective enjoyment of human rights consistent with international obligations.~~

**Proposal 2: Add a new Paragraph 2 bis to Shared Vision draft text of 9 December 2009**

**Recognizing the duty of all States to cooperate internationally to prevent climate change from interfering with the right to sustainable development and the human rights of all people.**

<sup>1</sup> This clause is the language of Principle 1 of the Stockholm Declaration, which states: “Man has the 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, and he bears a solemn responsibility to protect and improve the environment for present and future generations.” The Stockholm Declaration is referenced in Paragraph 7 of the Preamble to the UNFCCC.

<sup>2</sup> This clause is consistent with the 2009 Human Rights Council resolution, which states, “Climate change-related effects and response measures have a range of implications, both direct and indirect, for the effective enjoyment of human rights and these implications will be felt most acutely by those who are already in vulnerable situations. Human rights principles inform and strengthen international and national policy-making in the area of climate change and contribute to the realization of the objectives of the Convention.”

\* Representatives of the following organizations are members of the HUMAN RIGHTS & CLIMATE CHANGE WORKING GROUP and support the effort to include human rights protections in the final treaty text: Australian Climate Justice Program, Center for International Environmental Law, Climate Law & Policy Project, Earthjustice, Friends of the Earth, Many Strong Voices and WWF. For more information, please contact Alyssa Johl (+1-510-435-6892 or +45-4124-3124; ajohl@climatelawpolicy.org), Gita Parihar (+44-796-894-6908 or +45-3049-7401; gita.parihar@foe.co.uk) or Martin Wagner (+1-510-917-0434; mwagner@earthjustice.org).

**Proposal 3: Amend Paragraph 6 of Shared Vision draft text of 9 December 2009**

6. Recognizing further that low-lying and other small island countries, countries with low lying coastal, arid and semi-arid areas, areas dependent on ice and snow, or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems, and those segments of the population that have contributed least to climate change and that are already in vulnerable situations, owing to factors such as poverty, gender, age, indigenous or minority status, or disability, are particularly vulnerable to the adverse effects of climate change.

**Proposal 4: Amend Paragraph 8 to strengthen participatory rights in Shared Vision draft text of 9 December 2009**

12. Realizing that harmonizing sustainable development while addressing climate change and demands for a more equitable utilization of the global atmospheric resource necessitate a paradigm shift that adjusts global economic growth patterns towards a [low-emission] [high-growth] sustainable climate-resilient development, based on innovative technologies and more sustainable production and consumption, while ensuring a just transition of the workforce which creates decent work and quality jobs, ~~and seeking the active participation of a~~ All stakeholders be they governmental, including subnational and local government, private business or civil society, including the youth, and addressing the need for gender equity should have access to information, full, early and effective participation, and access to justice with respect to climate change adaptation and mitigation actions.

**Proposal 5: Add a new Paragraph 17 bis to Shared Vision draft text of 9 December 2009**

**Further noting that State Parties commit to respect international human rights standards that establish moral and legal obligations to protect and promote the full enjoyment of indigenous peoples' collective human rights in all matters related to climate change, including their rights to their lands, territories and resources, their traditional knowledge, and their free, prior and informed consent, consistent with the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as guaranteeing their full and effective participation in all climate change related processes at the global, regional, national and local levels.**

**Proposal 6: Create a complaint mechanism for non-party involvement by adding the following language to Shared Vision draft text of 9 December 2009**

**Emphasizing that the shared vision for long-term cooperative action must establish procedures to consider and address public communications by or on behalf of individuals, local communities or indigenous peoples who may be adversely affected as a result of implementation of the Convention.**

**ADAPTATION**

Rights and rights-related language should be included not only in the shared vision but also in the other pillars, such as adaptation and mitigation. In adaptation, the reference to existing human rights obligations as set forth in international treaties and instruments should be re-introduced. This language was included in the most recent consolidated text (INF.2) but has since been removed. In addition, the language on climate-induced migration must be strengthened if we are to adequately protect the millions likely to be displaced as a result of climate change.

**Proposal 7: Replace Paragraph 3(f) to strengthen participatory rights in Adaptation draft text of 10 December 2009**

[Implementation of the adaptation [framework [, including a concrete programme of action]] [programme] [shall] ~~[should]~~ [be guided by [inter alia] the following principles]: (f) **Be planned, implemented, supported, monitored and reported on in a manner that guarantees the rights of all relevant stakeholders to access to information, full, early and effective participation, and access to justice. Involve all relevant stakeholders through a participatory approach to ensure ownership and inclusiveness.**

**Proposal 8: Add a new Paragraph 3(l) to ensure full protection of human rights in Adaptation draft text of 10 December 2009**

[Implementation of the adaptation [framework [, including a concrete programme of action]] [programme] [shall] [be guided by [inter alia] the following principles]: **(g) Be undertaken in a manner that respects, protects and promotes the full and effective enjoyment of human rights and safeguards the most vulnerable from the adverse impacts of climate change.**

**Proposal 9: Add “human rights and gender considerations” in Paragraph 4, Alternative 2 of Adaptation draft text of 10 December 2009**

[All] [Developing country] Parties [in accordance with Art. 4.1(e)] [are invited], [taking into account national circumstances, priorities and support received in accordance with paragraph 2 below as appropriate,] **as well as human rights and gender considerations,** to plan for and implement urgent and immediate, short-, medium- and long-term adaptation actions, at local, subnational, national and regional levels, in and across different sectors and areas, [such as agriculture and food security, water resources, [infrastructure and settlements] health, ecosystems, coastal zones and oceans,] by, inter alia:

**Proposal 10: Revise Paragraph 8 of Adaptation draft text of 9 December 2009**

In the implementation of the adaptation [framework] [programme], including in the provision of support, **the full and effective enjoyment of fundamental human rights should be promoted by giving** priority ~~should be given~~ to...

**Proposal 11: Amend Paragraph 17 to strengthen protections for displaced peoples in Adaptation draft text of 9 December 2009**

All Parties ~~are invited~~ **shall**, taking into account national circumstances and priorities, ~~to consider~~ **implement** activities, **such as resilience building,** related national, regional and international migration and displacement or planned relocation of persons affected by climate change, while acknowledging the need to identify modalities of inter-state cooperation to respond to the needs of **and provide legal protection for** affected populations who either cross an international frontier as a result of, or find themselves abroad and are unable to return owing to, the effects of climate change. **The fundamental human rights of internally or internationally displaced people must be recognized;**

## MITIGATION

In mitigation, language that recognizes parties' existing obligations to respect, protect and promote human rights should be introduced. In addition, the language on REDD must ensure the full, prior and informed consent and full and effective participation of indigenous peoples and other affected communities in the decision making (and redress where appropriate) as this will be key to the success of the mechanism. This is also true of other project-based mechanisms. The language on spillover effects must also ensure that human rights considerations are taken into account when addressing the possible negative consequences of measures taken in response to climate change.

**Proposal 12: Add a human rights link to Paragraph 6 of non-paper 28 (LCA text, p. 63)**

Parties acknowledge that global efforts must be ambitious, must reflect the urgency of our collective endeavours and must be consistent with a mitigation pathway that respects, protects and promotes the full and effective enjoyment of human rights and safeguards the most vulnerable from the adverse impacts of climate change.

**Proposal 13: Strengthen the participatory rights in Paragraph 4(e) of non-paper 39 (LCA text, p. 92)**

When undertaking actions referred to in paragraph 2 above Parties shall: (e) In accordance with relevant international ~~agreements~~instruments[, such as the United Nations Declaration on the Rights of Indigenous Peoples,] and taking into account national circumstances and legislation, respect ~~for~~ the knowledge and rights of indigenous peoples[, including their rights to land, territories and all resources and full-free, prior and informed consent,] and members of local communities; ~~and promote the~~ ensure access to information, access to justice and full, early and effective participation of all relevant stakeholders in, including indigenous peoples, forest dwellers and local communities, prior to and during the design, planning, implementation, monitoring and evaluation of actions referred to in paragraphs 2 and 5 above; and ensure that indigenous peoples have the right to participate through representatives chosen by themselves in accordance with their own procedures and decision-making institutions;

**Proposal 14: Maintain language respecting and protecting human rights in Paragraph (7)(h)(ii) and (iii) (LCA text, p. 104)**

Various approaches shall ensure: (h) Promotion of co-benefits, particularly those that... (ii) Fully respect the rights of Indigenous Peoples and local communities; (iii) Ensure local communities have the right to participate in the design, implementation and monitoring of such mechanisms that impact them, including procedural rights of redress;

**Proposal 15: Add “human rights” to the list of negative impacts to avoid in Paragraph 2 (and other paragraphs) of non-paper 44 (LCA text, p. 113)<sup>3</sup>**

[Parties recognize that economic and social, including human rights, consequences may result from response measures taken by any Party.]

*For more information, please contact:*

Alyssa Johl (+1-510-435-6892 or +45-4124-3124; [ajohl@climatelawpolicy.org](mailto:ajohl@climatelawpolicy.org))  
Gita Parihar (+44-796-894-6908 or +45-3049-7401; [gita.parihar@foe.co.uk](mailto:gita.parihar@foe.co.uk))  
Martin Wagner (+1-510-917-0434; [mwagner@earthjustice.org](mailto:mwagner@earthjustice.org))

<sup>3</sup> Similarly, the phrase “human rights” should be added to other paragraphs including: Paragraph 3; Paragraph 5; Alternative 2 to Paragraph 9; Paragraph 10; Alternative 1 to Paragraph 10; and Paragraph 13(b).