

Report

Corporate Action for Climate Justice & Human Rights Report of the Expert Workshop and Side Event

Business and Human Rights Resource Centre and Friedrich-Ebert-Stiftung
17 June 2015, Geneva, Switzerland

Diversity of business: While all companies are responsible for acting on climate change, there needs to be clarity around how these responsibilities differ among companies. Distinctions that should be acknowledged include: “climate takers” (food and agriculture – though agriculture is also a major emitter) vs. “climate makers” (fossil fuels); companies responsive vs. immune to consumer demands.

Ensuring a just transition: A transition to a low-carbon economy needs to maximise the social benefits of climate action while minimising its impact on workers and communities. A just transition implies a package of social and economic policies which promote shared prosperity and a level of security and hope for addressing human rights impacts. This will only be achieved through social dialogue that includes workers, employers as well as vulnerable and poor communities who will be affected, respecting human and labour rights and decent work principles.

Shared responsibility: Climate change is a collective action problem and should be addressed as such, with all stakeholders acting on their responsibilities. This includes governments establishing effective regulatory mechanisms on a national and international level to send clear market signals to business which outlaw free-riding, and promotes innovative leadership as well as business undertaking mitigation and adaptation actions based on human rights criteria.

The power of business leadership: Although the primary duty bearers on the protection of human rights are States, business leadership on climate justice and human rights can be powerful in driving more ambitious actions globally. Leading companies can help create a “race to the top” among their peers through leading in plans to reduce carbon emissions; supporting industrial transformation through technological and organizational innovation; and using their powerful voice to advocate for stronger commitment by governments as well as to educate consumers on more sustainable choices.

Role of financial sector: Investors have a significant opportunity to influence improvements on climate actions in the companies they finance. The challenge remains to engage investors on climate justice at a large scale.

The human impacts of climate change are often forgotten in the plethora of statistics and environmental concerns. Yet, examples of the devastating consequences of inadequate

action already abound. The 2009 typhoon in the Philippines claimed more than 6,000 lives and led to the displacement of more than 6 million people. Climate change can impact the

right to life, health, housing, food, livelihoods and decent jobs for workers, their families, and especially affects those who contributed to it the least. While the main obligation to act on climate change is with governments, companies are in a powerful position to mitigate this disproportionate impact and help the vulnerable adapt.

The aim of this expert workshop was to explore how a business and human rights perspective can be used fully in the run-up to the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC COP 21) to push for a more ambitious agendas by companies and governments. COP 21 aims to achieve a universal agreement on climate change and will be held in Paris at the end of 2015.

The official agenda of the Paris negotiations mentions the obligations of states to include the human rights perspective in climate change actions in part 12b. However the way in which this obligation will be implemented is unclear. There is an opportunity to address this ambiguity by establishing clear expectations of governments and companies on climate justice and human rights.

First Session: Regulation and Incentives for a Just Transition

Trade unions play a crucial role in tackling the human rights impacts of climate change by advocating for a just transition centred on human rights and dignity. A just transition package should include: (1) sustainable investment in low-carbon emissions and job-rich industries and technologies; (2) social dialogue; (3) research & early assessment of policy impacts; (4) social protection & benefits; (5) local economic diversification plans that support communities in managing transitions. Production and consumption must be modified to limit detrimental environmental consequences, to raise living standards, create decent jobs, and to provide opportunities for

all in a period of transition to a climate constrained economy. It is thus imperative for the outcome of the Paris Conference to lead by example and integrate human rights not only into its language, but also into its implementation activities. Participants suggested developing a set of minimum criteria for a Paris agreement to be acceptable from a human rights perspective, which could serve as a reference point for civil society advocacy as well as a tool for monitoring implementation.

While acknowledging the significance of the Paris discussions, participants highlighted the importance of a global approach that includes coordination and cooperation of all actors and frameworks, even if they are not specialised in environmental issues. Peace, security, migration, health, human rights and development concerns are intertwined, but currently the approach to climate change by specialised institutions, such as the Human Rights Council or the UNFCCC, does not reflect this reality.

The relevance of climate change for existing business and human rights initiatives and frameworks needs to be clarified and used more actively. For example, key concepts in the UN Guiding Principles including human rights due diligence and stakeholder consultations can be directly applied by companies to address climate impacts. However, these implications are not clear in the document itself. There is potential for other existing regulatory and collaborative initiatives to drive more ambitious climate action by companies, including the Swiss movement proposing a referendum for mandatory due diligence for companies as well as future Global Union Framework Agreements with specific companies, across their supply chains.

In terms of other existing initiatives, national energy plans could be an opportunity to demonstrate strong government leadership on climate change. However, currently only Germany has adopted such a plan. These plans

could be much more widespread. Existing UN mandate holders, such as John Knox, Special Rapporteur on human rights and the environment, could also be engaged more actively to consider integrating a business and climate justice agenda in their platforms.

The main concern about existing frameworks is the lack of strong enforcement mechanisms, with regulation and legal accountability identified as useful tools to correct for these deficiencies. Participants noted litigation as an opportunity for greater extraterritorial accountability for companies' impacts on human rights through their contribution to climate change. Current legal claims include a Peruvian farmer's claim against German energy company RWE and a complaint with the Philippines Human Rights Commission against 50 fossil fuel companies over their contribution to climate change through greenhouse gas emissions. There is an expectation of more attempts by citizens to hold companies to account in this way, similarly to holding the tobacco industry accountable for harm to public health in the '90s.

However, "business" is not a monolithic entity and establishing a link between contribution to greenhouse gas emissions and human rights impacts is more relevant for fossil fuels than for agriculture for example. Different approaches are also required to engage companies that are responsive to consumer demands versus those that are far removed from them. Regulation on reporting and independent verifications could be helpful for companies immune to consumer demands while a "race to the top" approach may be more effective in driving action by those that are more sensitive to their reputation with consumers. Nevertheless, while a company can display good intentions on the international level in response to either approach, this can be easily undermined by strong lobbying groups from industrial sectors on the national level, rendering any vocal commitment to international standards less

credible.

Meanwhile, the impacts of regional investment and trade agreements in the context of climate change need to be addressed. Here, an emphasis should be placed on establishing climate justice between states as well. There is for instance no political coherence in accusing emerging states such as China of augmenting greenhouse gas emission while continuing to outsource production from Western countries to Chinese factories. The subcontracting supply chain system is all too often used to justify subcontracting human rights and environmental responsibilities.

The discussion consequently focused on the implementation of any agreement that can be reached at the Paris Conference. Political will, corruption, social conflicts, and a lack of social dialogue in society were identified as major challenges for any implementation process. From a socio-economic perspective the biggest challenge remains to agree on a fair distribution or redistribution of costs and benefits and to promote dialogue between employers groups, trade unions and other communities in order to facilitate their participation.

In this context, access to information and social dialogue is key. Workers and all affected communities should be informed of their rights with the role of future generations being particularly crucial. Education on climate change and human rights impacts is important to build an informed population. This should start with developing children's capacity to engage in collective action. Furthermore, research in nanotechnology and environmental technology may be useful investments for future generations to claim intellectual property and environmental rights.

The importance of social dialogue and consultation is also relevant for companies carrying out renewable energy projects, where local communities are often denied their right to free, prior and informed consent. For example, several indigenous communities in

Mexico affected by wind farms are not being adequately consulted by companies and are also unable to turn to the state as a fair interlocutor due to corruption and weak rule of law. This example highlighted the need for effective mechanisms to raise complaints through non-judicial routes in addition to legal approaches.

Second Session: Company Innovation, Policy, Advocacy, and Benchmarks

The second session of the workshop addressed actions companies are taking on climate change as well as levers to encourage more ambitious practices.

There was consensus that climate change is a collective action problem and the primary duty bearer for protecting against its human rights impacts is the State. It is vital to have an effective regulatory framework and citizens also have a role in electing governments that have the political will to provide it. However, considering the inertia of government negotiations on climate change, business has a powerful role to play in leading ambitious climate action. CEOs such as Paul Bulcke of Nestlé and Paul Polman of Unilever are stepping up to show that this is possible – more corporate executives need to follow this lead.

After all, philanthropic corporate social responsibility has been exposed as ineffective in achieving long-term change. Now the challenge is for companies to integrate social responsibility, including human rights and climate change actions, into their business model. Nestlé's example illustrates how the company seeks to achieve this. Nestlé has put in place a comprehensive social value programme recognising that long-term return on investment can only exist if companies produce long-term value for society. To signal this commitment to shareholders, it is not reporting on a quarterly basis, as short-term reporting periods make it more difficult to consider longer-term risks and environmental

or social impact. Its specific actions on climate change include mitigation steps such as commitment to 100% renewable energy and zero deforestation, as well as looking at climate change adaptation based on human rights criteria by working with farmers and downstream suppliers on good practices.

Benchmarks, indices and rankings can be useful in encouraging a “race to the top” by companies through peer pressure and public exposure. Oxfam's Behind the Brands ranking on social and environmental issues, including climate change, was brought up as an example of a powerful lever to push food & beverage companies to improve practices. In the food & beverage sector, business resilience is tied to the resilience of local communities, which translates into a strong business incentive for the sector to act responsibly on climate change. Yet, many companies in the sector have yet to undertake rigorous actions despite this incentive alone. Oxfam's ranking taps into companies' competitive nature by comparing the level of actions they have undertaken, and acts as an additional incentive for change. The Environmental Democratic Index was also cited as a more subject-specific indicator measuring fundamental rights in an environmental context. Some additional indicators would be welcome, but it is important that they do not allow for highly ranked companies to “green wash” their practices.

While public recognition of company advances is important, well-timed public pressure can also influence change on company practices. Greenpeace's campaign for a zero deforestation policy by McDonald's illustrates an effective use of public exposure by civil society. Recently, Greenpeace undertook a letter writing campaign to senior executives of fossil fuel companies and their liability insurers asking who would pay for lawsuits brought against company directors for funding climate change denialism. There is an opportunity to bring together responses to these letters to

push companies to take a stronger stance against climate change deniers.

A recurring topic throughout the discussions was the importance of the financial sector's role. Insurance companies, pension funds, private banks, and international financial institutions have a significant responsibility and opportunity to ensure that the projects and companies they invest in are climate savvy. However, the socially responsible investment movement is still a niche. The big question is how to get investors involved on a much larger scale. Divestment is not always the answer: sometimes questions about exposure of investments to climate risk, and increasing the transparency to shift asset allocations to low carbon investments by investors including pension funds could start stirring more corporate activity. The role of private banks is key as they could also be the subject of lawsuits regarding their investments. Financial products including green bonds are also tools to be examined further.

The views expressed in this publication are not necessarily the ones of the Friedrich-Ebert-Stiftung.

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