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Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the United Nations High Commissioner for Human Rights on the outcome of the seminar addressing the adverse impacts of climate change on the full enjoyment of human rights

Summary

The present report contains a summary of the seminar on addressing the adverse impacts of climate change on the full enjoyment of human rights, which was held in Geneva on 23-24 February 2012, in accordance with Human Rights Council resolution 18/22. The seminar, which was opened by the United Nations High Commissioner for Human Rights, saw the participation of numerous United Nations agencies, as well as of many interested States, academics and intergovernmental and civil society organizations.

The seminar was comprised of six sessions: the introductory session to frame the issue; adverse impacts of climate change on the full enjoyment of human rights, international cooperation and respect for human rights in all climate change-related situations; forging stronger cooperation between the human rights and climate change communities; human rights and climate change: the way forward; and the closing session.

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I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 18/22, in which the Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to convene a seminar on addressing the adverse impacts of climate change on the full enjoyment of human rights, with a view to following up on the call for respecting human rights in all climate change-related actions and policies, and forging stronger interface and cooperation between the human rights and climate change communities. The Council requested the Office to invite States and other relevant stakeholders, including academic experts, civil society organizations and representatives of those segments of the population most vulnerable to climate change, to participate actively in the seminar. The Council further requested OHCHR to invite the secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), the United Nations Environment Programme (UNEP), and the United Nations Development Programme (UNDP) to help organize the seminar, informed by the best available science, including the assessment reports and special reports of the Intergovernmental Panel on Climate Change (IPCC).

2. In the resolution, the Council also requested the Office to submit at its twentieth session a summary report on the seminar, including any recommendations stemming therefrom, for consideration of further follow-up action. Moreover, it requested that the Office make the summary report available to the Conference of the Parties to the UNFCCC at its the eighteenth session (COP18).

II. Seminar

3. The seminar to address the adverse impacts of climate change on the full enjoyment of human rights was organized by OHCHR in consultation with Member States, a range of experts and civil society representatives. It was held in Geneva on 23 and 24 February 2012. Interpretation was provided in English, French and Spanish. The seminar agenda included six sessions: an introductory session, four thematic sessions and a closing session. The introductory session framed the two-day discussion; session 1 dealt with the adverse impacts of climate change on the full enjoyment of human rights and their inter-linkages; session 2 focused on international cooperation and respect for human rights in all climate change-related situations; session 3 discussed possibilities for forging stronger cooperation between human rights and climate change communities; session 4 considered various opportunities and avenues for future progress. Finally, the closing session heard the summaries of sessions 1 through 4, presented by the respective rapporteurs, and a closing address. The seminar was attended by at least 85 interested States, along with a number of United Nations agencies, academics as well as intergovernmental and civil society organizations.

A. Introductory session

4. The introductory session was opened by the President of the Human Rights Council, who provided an overview of the progression of events leading up to the seminar, including Council resolution 7/23 (March 2008) and the resulting analytical study on the relationship between climate change and human rights; resolution 10/4 (March 2009), and the resulting panel on the relationship between climate change and human rights; and the Human Rights Council's 2010 Social Forum (October 2010) on the adverse effects of climate change on human rights. The President also noted that an analytical study on the relationship between

human rights and the environment was presented to the nineteenth session of Council in March 2012, further to the complementary resolution 16/11 on human rights and the environment. The President emphasized that the seminar can make progress towards enhancing cooperation between advocates in the human rights and climate change awareness fields prior to the upcoming United Nations World Conference on Sustainable Development (Rio+20), as climate change is the result of unsustainable development that must urgently be addressed.

5. Subsequently, the High Commissioner delivered a keynote address. She explained that climate change is a social, economic and political issue with profound implications for social justice and gender equality, and its impacts have a range of implications for the effective enjoyment of human rights. Apart from the readily observable effect of exacerbating the scope and frequency of natural disasters, the High Commissioner stressed that more often the adverse effects of climate change will be cumulative and unspectacular and have a gradual effect on human rights. While the negative consequences will only gradually touch on the lifestyles and activities of the people in developed States which are most responsible, the least developed countries and small island States which have contributed least to global greenhouse gas emissions will be worst affected by global warming.

6. Bringing human rights into our future planning will enable us to better understand who is at risk from the effects of climate change and how they can be protected. For instance, the High Commissioner explained that men and women do not experience climate change equally. Because women constitute most of the world's farmers, and produce more than half of the world's food, their knowledge and capacity are crucial for successful climate change adaptation and mitigation policies. Similarly, migrants who are compelled to leave their homes as part of an adaptation strategy will remain in a precarious position throughout the cycle of their journey and will be vulnerable to human rights violations as they move across borders. The High Commissioner called on States to ensure that their migration policymaking is premised at all stages on fundamental human rights standards; she recognized the critical need for more research on the complex links between climate change and migration. Finally, the High Commissioner stressed that the effects of climate change will be most acutely felt by those segments of the population whose rights are already at risk due to other factors, such as poverty, age, minority status and disability. The most dramatic impacts of climate change are expected to occur in the world's poorest countries where rights protections are too often weak. States are legally bound to address such vulnerability in accordance with the human rights principle of equality and non-discrimination.

7. The High Commissioner concluded that the international development policy framework must necessarily be based on an understanding of climate change from a human rights perspective. A human rights-based approach allows us to appraise the most pressing needs of a highly inequitable global society, with greatly differing social, environmental, and economic levels of development. The High Commissioner mentioned that climate change debates, like those surrounding the seventeenth session of the Conference of Parties (COP17) in Durban, traditionally focused on the scientific environmental and economic aspects of the issue, with little attention given to human rights concerns. The High Commissioner therefore called on Member States preparing for Rio+20 to recognize that the future we want, as compared to the future we will otherwise get, depends largely on how well we address climate change. A human rights-based approach must be taken so that progress is not made at the cost of the most vulnerable and discriminated against members of society.

8. The Foreign Minister of Bangladesh, Dipu Moni, gave the next keynote address. She noted that existing climate negotiations have proceeded at a very slow pace, and

discussions on climate change and human rights have generally remained exclusive to their own domains, despite the substantive linkages between the two. The Foreign Minister explained that we must consider how to internalize the human consequences of climate change from a rights-based perspective, rather than through quantitative dimensions alone, particularly in the upcoming UNFCCC negotiations and in the Rio+20 discussions on sustainable development and green economy. The consequences of climate change have been strongly felt in Bangladesh where floods, cyclones, erratic rainfall, prolonged droughts, enhanced salinity, and severe erosion have caused forced displacement and migration. If the effects of climate change continue as projected, a one-metre rise in sea level would submerge one fifth of Bangladesh by 2050, and displace over 20 million people. The Foreign Minister noted that in 2010 alone, 38 million people had been displaced globally due to climate-related, rapid-onset natural disasters, well in excess of the number of individuals displaced by violent conflicts. The human rights impacts of climate change require an immediate response.

9. The Foreign Minister highlighted that customary international law requires every State not to knowingly allow itself to be used for acts contrary to the rights of others. There are also sufficient reasons to believe that emission reduction and compensatory finance imply human rights obligations above and beyond existing obligations under climate conventions. Therefore, countries which bear responsibility should voluntarily come forward with their own share of contributions of technology, climate finance, and human rights reparations. The Foreign Minister also stated that the human rights community should express views on the meaning of the term “equity” and its operationalization under the UNFCCC, as a fair balance between the rights and responsibilities of nations and communities. Furthermore, mitigation programmes such as biofuel and REDD (reducing emissions from deforestation and forest degradation in developing countries) should be examined.

10. The Commissioner for Climate Change of the Philippines, Mary Ann Sering, presented the next keynote address. Ms. Sering explained that the cross-sectoral implications of climate change were introduced to the consciousness of the Philippines following the past several years of worsening hurricane seasons. Costs resulting from natural disasters have increased 18-fold since 1970 and are still rising. Extreme weather events are currently compelling the Philippines to spend an estimated average of 2 per cent of its annual GDP on reconstruction and rehabilitation, which is threatening the Philippines’ successes towards achieving the Millennium Development Goals by taking funding away from the provision of basic services, such as education and health care. Two consecutive typhoons in 2009 caused a combined US\$4.3 billion in damage and required another US\$4.42 billion over the next two years in recovery and rehabilitation costs. Other impacts on the Philippines have not been financially quantifiable: the country’s depression and suicide rates have increased significantly following the hurricanes, due to the loss of loved ones, possessions and livelihoods.

11. These natural disasters prompted the Philippines to pass legislation in 2009 to create a Climate Change Commission. This Commission is chaired by the President of the Philippines in an effort to promote accountability and ensure that climate change is being addressed at the highest level. The Philippines recognized that its capacity to adapt to the effects of climate change is among the weakest in the world due to geographical and financial factors, and the Commission adopted a thematic action plan targeting seven specific areas impacted by climate change. Ms. Sering emphasized that climate change requires an enormous and global economic transformation to avert its impacts, and the international community must also consider the rights of developing countries to continue to develop sustainably.

12. The statement of the Executive Secretary of UNFCCC, Christiana Figueres, was read by the Secretariat. She expressed UNFCCC's intent to more actively participate in the next meeting, and welcomed receiving the summary report of the seminar in advance of COP18.

13. A statement by the Executive Director of the United Nations Environment Programme (UNEP), Achim Steiner, was read by Barbara Ruis, Legal Officer. The Executive Director recognized that a healthy and clean environment is a fundamental prerequisite to the enjoyment of human rights and noted that environmental degradation is impacting the world's poorest and most vulnerable at a disproportionate rate. The consequences of climate change include forced displacement, challenges to food security, impacts on water resources management, and obstruction of the right to development. Up to 12 per cent of the world's gross domestic product is already at risk from existing climate patterns. Despite these complications, combating climate change should be perceived as an opportunity for generating jobs and economic growth.

14. The Executive Director reflected on a number of open questions to be addressed, including the need for and potential content of a right to a healthy environment; the role and duties of private actors with respect to human rights, climate change and the environment; and the operationalization of international human rights obligations as a tool to implement multilateral environmental agreements.

15. Martin Khor, Executive Director of the South Centre, stated that we are in the midst of a complex, multidimensional crisis that involves the environment, development and equity. This crisis must be addressed in a coherent manner and as a package. In addition to working to deliver social and economic development, developing countries are being forced to divert resources to recovering from natural disasters and are contributing to the mitigation effort. The World Bank has estimated that mitigation alone for developing countries will require US\$140-175 billion per year, supplemented by another US\$265-565 billion in associated financing. Furthermore, adaptation in developing countries will require an estimated US\$100 billion per year, although Mr. Khor explained that this figure underestimates certain environmental aspects and fails to adequately consider damage and reconstruction costs. A further US\$182-505 billion will also be required annually to facilitate the required technology transfer from developed to developing countries.

16. The solution therefore requires the linking of human rights and equity to the environment and the economy. Developed countries must continue to take the lead because of their historical responsibility for climate change and because of the higher capacity they were able to develop through low-cost energy and fossil fuels. Meanwhile, developing countries have obligations to their own citizens for mitigation, adaptation, disaster management and reconstruction, and economic development through low-emission economic and social models. The solution will require negative emission by developed countries or significant transfer of technology and finance to developing countries. Mr. Khor concluded that it is vital to reaffirm equity as the basis of the solution; create an international enabling environment that supports and assists developing countries that switch to new economic and technological models; and recognize the rights of individuals and communities to sustainable development, environmental security, international solidarity as well as all of their human rights.

17. The final keynote address was delivered by the Executive Director of Greenpeace International, Kumi Naidoo via Skype. Dr. Naidoo explained that the extraterritorial nature of climate change impacts requires a peak in global emissions by 2015 and a reduction of emissions by at least 80 per cent below 1990 levels by 2050. Dr. Naidoo alleged that the failure of countries to make meaningful and binding commitments to such reductions, including those countries with a historical responsibility for the largest share of emissions, marks a political failure on the part of those that have a responsibility to lead. Furthermore,

he clarified that those countries being asked to contribute to a Green Climate Fund and climate financing are not being asked for charity, but rather for actual compensation to the developing countries and small island States they have impacted.

18. Dr. Naidoo also provided examples of how human rights can be a successful medium for addressing climate change. Recent discussions on the issue of climate-forced migration are addressing the political and legal rights of the estimated 200 million people who will be forcibly displaced by climate change by 2050. Another important success came in December 2010 when the Federated States of Micronesia requested a transboundary environmental impact assessment regarding the life extension of a coal-fired power plant in the Czech Republic. Micronesia established itself as a stakeholder based on human rights and environmental concerns. The Government of the Czech Republic recognized that transboundary pollution includes the greenhouse gas emissions that drive climate change and required the plant operator to offset future emissions. Dr. Naidoo raised the possibility that the Council should further explore the human rights implications of climate change through a special procedure, and he called for the recognition of the right to a healthy environment in the Rio+20 outcome document.

B. Session 1: Adverse impacts of climate change on the full enjoyment of human rights and their inter-linkages

19. Session 1 focused on the adverse impacts of climate change and human rights and their inter-linkages. The moderator of the session was Shree Servansing, Permanent Representative of the Mission of Mauritius, and the rapporteur was Barbara Fontana, First Secretary and Deputy Head of the Human Rights Section of the Permanent Mission of Switzerland. The panellists for this session included Chaloka Beyani, Special Rapporteur on internally displaced persons and a senior lecturer at the London School of Economics; John Crowley, Chief of the Sector on Ethics of Science and Technology of the United Nations Educational, Scientific and Cultural Organization (UNESCO); Dinah Shelton, Chair of the Inter-American Commission on Human Rights and law professor at George Washington University Law School; Andrea Carmen, Executive Director of the International Indian Treaty Council (IITC); and Anita Nayar, member of the Executive Committee of Development Alternatives with Women for a New Era (DAWN).

20. The panellists in Session 1 noted that climate change has caused and will continue to result in droughts and desertification, rising temperatures, effects on sea levels and habitability, loss of access to sanitary water and sudden-onset natural disasters such as cyclones and hurricanes. These events have and will continue to create forced migration, both internally and beyond borders, that will often be durable and require permanent solutions.

21. Confronting the physical effects of climate change presents a number of conceptual problems. It is generally understood that climate change is a human rights concern and that a human rights-based approach offers a response to this problem. Yet it is not always clear what this entails in practice. There is no individual human rights challenge that is unique to climate change because it is an aggregate phenomenon resulting from our social and economic models – that is, there is no singular “climate change human right” being violated – and the specificities of human rights impacts arise from differentiated vulnerability.

22. For example, the impacts of climate change disproportionately affect the rights of women, yet it has been difficult to integrate a gender perspective due to the dominant climate change discourse. Discussions of the relationship between climate change and population growth, for instance, have significant implications for women’s empowerment. Another example is those living in poverty and residing in rural areas. Adaptation and

mitigation techniques must still respect the human rights of vulnerable populations. Nonetheless, investments in these rural areas for the production of biofuels as part of a broad strategy to address climate change have frequently failed to ensure the protection of the region's impoverished citizens, particularly as pertains to food security. These examples demonstrate that well-intentioned attempts to address climate change may fail to achieve their objective of protecting vulnerable populations. Accordingly, the panellists observed that a human rights-based approach is essential to addressing the adverse effects of climate change while ensuring that the threats facing vulnerable persons are not unnecessarily compounded.

23. The panellists asserted that a human rights-based approach to climate change is also pragmatically necessary because litigation alone is not working. It is well understood that climate change affects a whole range of human rights. States are legally obligated to respect these human rights under customary international law and through treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Nevertheless, efforts to invoke environmental legal obligations have not created the tangible results necessary to be a sufficient solution. Two petitions before the Inter-American Commission on Human Rights asserting human rights claims stemming from climate change have garnered significant attention. Nonetheless, such claims face significant jurisdictional limits due to the extraterritorial nature of climate change and the inability of regional courts to bind non-state actors.

24. The panellists concluded that a human rights-based approach should inform all policies related to climate change. This includes not only humanitarian responses, but also mitigation and adaptation policies. Because responses to the impacts of climate change have primarily been knowledge-driven, the panellists further recommended that the human rights-based approach should be anticipatory by promoting disaster and risk reduction awareness.

25. To supplement these general conclusions, the panellists in Session 1 provided concrete steps for addressing the impacts of climate change on human rights. The panellists noted that several special-procedure mandate holders, including the Special Rapporteurs on the human rights of migrants, the right to adequate housing, the right to food, and the right to safe drinking water and sanitation, have all considered the impacts of climate change from the perspective of their mandates. Encouraging all existing mandate holders to consider the impacts of climate change on human rights will further illustrate these linkages and aid in mainstreaming the understanding that climate change is a human rights issue. Additionally, the panellists indicated that certain international instruments, such as the Declaration on the Rights of Indigenous Peoples, would serve as useful guidelines when developing policy solutions as well as mitigation and adaptation strategies.

C. Session 2: International cooperation and respect for human rights in all climate change-related situations

26. Session 2 focused on the status of international cooperation and respect for human rights in all situations relating to climate change. The moderator of the session was Idriss Jazairy, Permanent Representative of the Mission of Algeria, and the rapporteur was Mario Vega, Minister Counsellor for the Permanent Mission of Costa Rica. The panellists for this session included Virginia Dandan, Independent Expert on international solidarity; José Riera, Senior Adviser to the Director, Division of International Protection, United Nations High Commissioner for Refugees (UNHCR); Shahidul Haque, Director of International Cooperation and Partnerships at the International Organization for Migration (IOM); Renate Christ, Secretary of the Intergovernmental Panel on Climate Change (IPCC);

Stephen Humphreys, lecturer in law at the London School of Economics; Maria Theresa Lauron, IBON International; and Theodor Rathgeber of the German Forum Human Rights.

27. The panellists in Session 2 raised several conceptual issues that must be addressed. The States and peoples most likely to be affected are those who have contributed the least to climate change through greenhouse gas emissions. The effects of climate change transcend national borders and take on a global dimension. As a result, States face the challenge of responding not only at the national level, but also at the international level. Efforts taken in isolation to address climate change and its effects will no longer work.

28. Another obstacle to international cooperation is the significant cost of implementing mitigation and adaptation measures. Nevertheless, the panellists concluded that these costs are largely unavoidable and will only increase the longer it takes to implement these measures. Climate finance from developed countries is necessary to offset these economic burdens. The panellists noted that climate finance presently means one thing to developing countries and something rather different to developed countries, but concluded that this financial support to developing countries and small island States can no longer be framed as charitable contributions.

29. The panellists also considered the difficulty of addressing the effects of climate change on migration policy. Migration serves as one available form of adaptation, but policymakers should recognize that this solution will also increase the vulnerability of the displaced individuals. Attention should be paid to addressing possible protection gaps within the migration, climate change, and human rights-related discussions, and additional effort should be placed on capacity-building.

30. Finally, the panellists discussed reconciling the transboundary responsibilities of climate change with the largely domestic implications of human rights obligations. One proposal was not only to use human rights to influence climate change, but also to use the approaches of the environmental community to inform human rights in the area of transboundary obligations. Attention was also drawn to the newly published Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights as another instrument for addressing the extraterritoriality issues. The conceptual difficulties posed by the transboundary effects of climate change further reinforce the need for coordinated effort at the international level.

31. After raising these conceptual hurdles, the panellists clarified what international cooperation means. International cooperation is often perceived only in terms of humanitarian responses in times of suffering, yet it also entails coordinated processes for achieving common goals. International cooperation must consider and facilitate both crisis management and risk management.

32. International cooperation will also require utilization of existing international principles and mechanisms for climate change and human rights. Legal instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, as well as mechanisms such as the UNFCCC and the United Nations Conference on Sustainable Development (Rio+20), must be employed. Furthermore, the international community should ensure that core human rights obligations remain non-derogable in times of conflict, emergencies, and natural disasters. These human rights protections play a crucial role in national and international policy by ensuring accountability and protection for individuals. A victim-focused approach to climate change and human rights may help the international community to come together to address the issue.

33. Concrete steps involving capacity-building, climate finance, and technology transfer were recommended. Capacity-building requires global recognition that maintaining the status quo will not provide a solution, but is rather exacerbating the problem. All countries

must commit to reducing climate change and its impacts on human rights while recognizing that other countries will undermine the effectiveness of all the commitments. To facilitate these meaningful commitments, the panellists noted that the international community must identify effective practices for adaptation and mitigation that simultaneously promote and protect human rights.

34. Another method raised for building capacity is the establishment of a special procedure. Tasks for such a mandate could include developing a legal instrument, identifying effective practices or coordinating with the other special-procedures mandate holders to integrate climate change issues into their respective mandates. It was also suggested that the Human Rights Council could ask existing mandate holders to integrate climate change where relevant.

35. Climate finance can be improved through structural changes to the existing architecture. Climate finance must address human rights issues directly, but this language is noticeably absent in the present architecture. Climate finance must be adequate, predictable and equitable, and it must be democratically governed so that countries participate on an equal basis. Further, climate finance should be structured so that developing countries are able to provide input as to how they receive financial support.

36. The importance of immediate technology transfer was discussed. It is not sufficient that developed countries generate mitigation and adaptation methodologies if these are not passed along to developing countries and small island States. Failure to transfer technologies increases the likelihood that these States will eventually become the next wave of environmental degraders and risks leaving these States without the technological capacity for successful adaptation.

D. Session 3: Forging stronger cooperation between the human rights and climate change communities

37. Session 3 focused on forcing stronger cooperation between the human rights community and the climate change-awareness community. The moderator of Session 3 was Evan P. Garcia, permanent representative of the Philippines, and the rapporteur was Omar Rabi, first secretary of the Permanent Mission of Morocco. The panellists for this session included Iruthisham Adam, permanent representative of the Maldives; Alanna Armitage, UNFPA Director of the Geneva office; Elena Villalobos Prats, World Health Organization (WHO); Daniel Taillant, Center for Human Rights and Environment (CEDHA); Alyssa Johl, Center for International Environmental Law (CIEL), in her capacity as Coordinator of the Human Rights and Climate Change Working Group; John Knox, professor at Wake Forest University School of Law; and Jasper Teulings, general counsel for Greenpeace International.

38. The panellists endorsed the view of the previous sessions that there is a natural link between human rights and climate change, and concluded that one of the main challenges is the lack of coordination and synergy between these two areas. The unique relationship between every relevant stakeholder and the impacts of climate change on human rights should be understood, whether a member of the developing countries and small island States that are experiencing these effects disproportionately or a member of the developed countries that are contributing to these effects and feeling the impacts more gradually. This challenge requires the human rights community to foster a dialogue with members of the climate change-awareness community and to raise awareness of the human rights impacts of climate change. Only then can the climate change community demonstrate the value that the human rights-based approach will bring to the issue and bridge the existing gaps between the two communities.

39. The human rights-based approach would allow the climate change community to proactively address the impacts of climate change on human rights such as the rights to the highest attainable standard of physical and mental health, adequate housing, food and safe drinking water and sanitation, among others. A human rights-based approach would assist with operationalizing such initiatives by providing a realistic assessment of the gaps in current mitigation and adaptation policies.

40. In addition, the panellists noted that further emphasis needs to be paid to the collective but differentiated responsibilities of States in the response to the extraterritorial impacts of climate change. To address the responsibilities, the international community could consider mechanisms to ensure the accountability of developed countries responsible for greenhouse gas emissions and to enable some form of recourse for those disproportionately affected by the impacts of climate change.

41. A number of approaches to further facilitate cooperation between the human rights and climate change communities in the future were suggested including by focusing on capacity building, utilizing existing legal mechanisms and organizations, and integration through impact assessments.

42. Capacity-building will require institutionalizing cooperation between the human rights and climate change communities. To accomplish this, the Human Rights Council must continue to facilitate dialogue between the two communities. United Nations agencies should undertake efforts to mainstream a human rights-based approach to climate change in their analyses and methodologies. UNFPA and WHO were specifically mentioned as important agencies for facilitating this interaction, but the panel clarified that every United Nations agency should engage a human rights-based approach. It was further proposed that a seminar or workshop on climate change and human rights be held as a side event at COP18 in December 2012.

43. The panellists also explained that existing legal mechanisms could be utilized to mainstream a human rights-based approach to climate change. Specifically, they proposed creation of a special procedure and utilization of treaty-based mechanisms as means of applying human rights to this environmental problem. The possibility of merely revising the existing mandates was raised in relation to a potential special procedure, but the majority of panellists preferred creating a new mandate for this issue. Some of the panellists recommended the development of a new legal instrument on climate change and human rights, while other panellists noted that the historic difficulty of developing and achieving consensus on such an agreement might make this solution impractical due to the urgency of the situation.

44. To supplement the mechanisms available through international organizations and treaties, panellists raised the possibility of advancing the climate change and human rights platform through litigation. Examples of tactics employed included the recent Inuit petition before the Inter-American Commission on Human Rights and the successful efforts by the Federated States of Micronesia to have a transboundary assessment conducted for a power plant in the Czech Republic. The panellists cautioned that litigation is not by itself a sufficient means of achieving a human rights-based approach to climate change, but noted that the impact of these cases was noticeably greater than the lawsuits themselves, due to their capacity to create public dialogue about the issues and the peoples affected.

45. Finally, the panellists highlighted the value of impact assessments on human rights. The mainstream discourse on the environmental effects of climate change has long utilized environmental impact assessments. By utilizing an identical approach to evaluate the human consequences, the human rights community can more effectively contribute to the knowledge-driven approach embraced by the climate science community. Further, a human rights impact assessment allows for the seamless integration of a human rights-based

approach into the efforts made by the climate change community to combat climate change and its impacts. Human rights advocates should also consider studies on other factors relating to climate change and human rights, such as the impacts of population dynamics and urbanization.

E. Session 4: Human rights and climate change: The way forward

46. This session focused on forging stronger cooperation between the human rights and climate change-awareness communities. The moderator was Mary Robinson, former High Commissioner for Human Rights, former President of Ireland and founder of the Mary Robinson Foundation Climate Justice. The rapporteur was Heba Mostafa, First Secretary of the Permanent Mission of Egypt. The panellists for this session included Sufiuer Rahman, Director General of the Ministry of Foreign Affairs of Bangladesh; Vicente Yu of the South Centre; Joshua Cooper of the University of Hawaii and Director of the Hawaii Institute for Human Rights; David Azoulay from the Center for International Environmental Law (CIEL); and Yves Lador from Earthjustice.

47. The significant problem is a lack of cooperation, coordination, and coherence between the climate change-awareness and human rights communities. This lack of communication occurs at the domestic level, including in government agencies and civil society organizations that focus exclusively on their respective spheres of expertise, and at the international level between intergovernmental agencies. This lack of proper international cooperation has and will continue to create a protection gap until the efforts of the human rights and climate change communities are coordinated and successfully operationalized.

48. This issue, which received significant attention throughout the seminar, demands a global response on both the micro and macro scales. Generally speaking, a human rights-based approach will help those involved in climate change negotiations to better identify and prioritize the areas demanding immediate attention. More specifically, this approach will assist States in recognizing if and where they are failing to fulfil their international and domestic obligations. Better recognition of these responsibilities is also essential to addressing the extraterritorial responsibilities of individual States for the effects and impacts of climate change. The possibility of eventually negotiating towards an international declaration was raised as a potential mechanism for mainstreaming climate change and human rights norms and obligations.

49. Some panellists described the close links between sustainable development and the issues of human rights and climate change. Historically, there has been a strong correlation between States' level of development and level of greenhouse gas emissions. This continues to be the case because of inconsistent and contradictory policies at the domestic and international levels due to the international community's attempts to separately address climate change and sustainable development. It is important that upcoming negotiations on sustainable development identify this historical linkage and reject the idea that economic growth must be related to emissions. In order to move away from this link, however, developed countries must provide climate financing and technology transfer to developing countries so that the developing economies do not have to sacrifice their development aspirations in their efforts to keep global emissions to a minimum.

50. One specific solution advocated by the panellists was using the capacity of existing organizations to promote coordination between the climate change and human rights communities. This can be accomplished by mainstreaming climate change and human rights considerations into the various United Nations mechanisms, such as the treaty bodies and the universal periodic review.

51. Additionally, the panellists argued that a special procedure may be particularly desirable in this situation. They briefly raised the possibility of incorporating climate change into the proposed mandate on environment and human rights in order to create a synergy in these discussions. Another potential approach mentioned was streamlining the existing special-procedures mandates to include climate change and human rights. Despite these possibilities, the panellists generally considered that a new and independent special procedure on the issue was important. The existing mechanisms that might have already addressed climate change and human rights have proven insufficient. Climate change often involves silent disasters that create silent victims, and this issue is a special case requiring particular attention by an independent mandate.

52. The other recommendation of the panellists was to establish a new forum, whether annually or biennially, where States and all relevant stakeholders can engage with the issue of climate change and human rights. This forum should foster dialogue between all parties, paying particular attention to the perspectives of the communities and peoples affected by climate change.

F. Closing session

53. The closing session summarized the major issues considered, the various responses offered, and specific solutions agreed during the course of the seminar. The session was moderated by Melinda Ching Simon of OHCHR. Brief summaries of the four thematic sessions were presented by the respective rapporteurs, and the session concluded with a closing address by Mary Robinson.

54. Ms. Robinson expressed the view that the discussion of climate change in a human rights context effectively brings home the severity of the impacts. Indeed, this severity of the impacts of climate change on human rights needs to be disseminated more broadly. In addition to the many effects considered at the seminar, she reflected that many of the global problems and regional conflicts being addressed by United Nations efforts in other contexts can be attributed to the unpredictability of the weather.

55. It is a great injustice that these effects are being felt primarily by developing countries that are the least responsible for causing them. Last year, approximately 250 natural disasters affected some 300 million people. Although the effects of severe weather events can be terrifying, the long-term impacts of these events present an entirely different type of challenge. In Bangladesh, recent cyclones displaced a large portion of the population residing in the area around the Bay of Bengal. Years later, the impacts continue as the water in the region now prevents the growth of traditional foods. Residents are still being displaced long after the immediate effects have disappeared.

56. Ms. Robinson concluded that a much stronger linkage is needed between the human rights and climate change communities. This linkage must focus its attention on those members of vulnerable and marginalized groups and communities that will be affected the most by climate change.

57. As one salient example, the gender dimensions of climate change must be clarified. In the developing world, it is women who will face many of the largest impacts of climate change. It is largely women who bring food to the table, who must walk further to collect firewood, and who bear the burden of trying to provide safe water for their families. Discussions of behavioural change should consider the increasing role that women must play in the future.

58. Fortunately, there are concrete ways to grow the desperately needed cooperation. The Durban Climate Change Conference in 2011 created a platform to work for a new climate regime in which all countries will participate; the human rights and justice issues

surrounding climate change must be integrated into this process. Countries in the Human Rights Council have worked towards including input from the human rights community, and there is now an entry point that was not available prior to the Durban conference. Over the next four years, the international community must ensure that there is a strong human rights-based approach to the climate negotiations preceding the 2015 agreement.

59. For a human rights-based approach to be integrated into the deliberations prior to 2015, other steps must be taken right now. One of the most important steps is increasing coordination between the domestic and international human rights and climate change communities. The issues of “common but differentiated responsibility,” “equity” and the “right to development” must be considered in tandem as a principal topic during future discussions of the international community. A regular forum for discussion of these and other issues is necessary, as this debate still has not taken off in the climate change world.

60. Additionally, the United Nations must enhance coordination through its own existing international mechanisms. Inter-agency cooperation is one aspect of this process. The joint paper being prepared by OHCHR and UNEP is one example of coordination between agencies, but this must become common practice across all organizations.

61. Similarly, human rights and climate change must be integrated at each opportunity throughout the United Nations, including through the Human Rights Council, special forums, the universal periodic review, treaty bodies and special procedures. According to Ms. Robinson, on this last avenue, there seems to be strong support for appointing a Special Rapporteur or Independent Expert on the issue of climate change and human rights. Such a special procedure would need to focus on streamlining and mainstreaming the issue of climate change and human rights as one part of its mandate. Additionally, there is strong support for calling on existing mandate holders to integrate climate change and human rights into their activities and to bring relevant issues before the Council, the General Assembly and the various agencies with which they work.

62. Finally, the international climate change and human rights communities must build on the suggestions put forward during this seminar. Ms. Robinson raised the example of technological innovation that was discussed throughout the seminar in the context of technology transfer. The opportunities here are abundant. The mobile phone, for instance, has drastically changed everyday life over the course of two decades. There are other technologies waiting to be discovered and shared that will change the lives of the 1.4 billion people with no access to electricity, or the 2.7 billion people that cook on coal or other resources that result in serious health issues.

III. Conclusions

63. **Climate change is a social, economic, environmental and political issue with profound implications for the effective enjoyment of human rights, and its impacts have serious consequences for social justice and gender equality. At the individual level, the effects of climate change will be most acutely felt by those individuals whose rights protections are already precarious due to factors such as age, disability, gender, indigenous status, migrant status, minority status and poverty. Within the global community, least developed countries and small island States, which have contributed the least to global greenhouse gas emissions, will be the worst affected by climate change. Severe weather has immediate impacts that generate enduring alterations to the inhabitability of the planet, while many other effects will develop more slowly into broad, systemic issues. Because the specific human rights impacts arise from differentiated vulnerabilities, a crucial challenge in addressing climate change will be paying adequate attention to the variability of effects.**

64. Thinking about climate change from a human rights perspective is a fundamental necessity for guiding our global climate change policy in adaptation and mitigation as well as international development policies. Discussions of these issues, like the negotiations during COP17 in Durban, have traditionally focused on the environmental and economic aspects of the issue, with little attention given to human rights. The High Commissioner called on Member States preparing for Rio+20 and COP18 of the UNFCCC to recognize that the future we want, as compared to the future we may get, depends largely on how well we address climate change. This requires considering how to internalize the human consequences of climate change from a rights-based perspective, rather than limiting ourselves to quantitative dimensions alone.

65. Careful consideration of the common but differentiated responsibilities of States, as well as the principle of “equity,” must serve as important guides in the future with regard to climate change (but not to human rights domestically, where responsibilities are equal). Developed countries must continue to take the lead in addressing climate change, both because of their historical responsibility for climate change and because of their higher capacity.

66. Conversely, the international community should also carefully consider the challenges faced by developing countries to achieve sustainable development without the benefit of low-cost energy and fossil fuels that aided the developed world. Developing countries have obligations to their own citizens for adaptation and disaster management and must simultaneously attempt to promote their own economic and social development by switching to new low-emission economic models.

67. Human rights should be considered in all stages of domestic and international mitigation and adaptation policies, and these human rights-based policies must be proactive as well as reactive. A human rights-based approach would assist with operationalizing initiatives to proactively address the impacts of climate change on human rights by providing a realistic assessment of the gaps in current mitigation and adaptation policies. Furthermore, because climate change transcends national borders, the international community must adopt a coordinated approach at both the domestic and international levels. Efforts taken in isolation to address climate change and its effects will no longer work. This approach requires immediate engagement with the existing legal instruments and organizational bodies of the climate change and human rights communities.

68. The seminar concluded that several concrete steps must be taken to tackle these conceptual problems and capitalize on upcoming strategic opportunities. The panellists and speakers concentrated on five major areas, including integrating human rights into climate change and sustainable development, promoting capacity-building, utilizing special procedures, ensuring adequate climate financing and improving technology transfer.

69. First, the seminar recognized that the recent developments at the COP17 in Durban created a much needed opportunity for the human rights issues surrounding climate change to be integrated in the new climate regime. Upcoming negotiations on climate change and sustainable development must identify the historical link between States’ level of development and their greenhouse gas emissions. The international community must resist the temptation to accept that economic growth will inevitably remain tied to these emissions, and it must make coordinated and determined efforts towards new economic and social models. As part of this, developed countries must provide climate financing and technology transfer to developing countries so that these emerging economies do not have to abandon their development aspirations in their efforts to keep global emissions to a minimum.

70. Second, standards that maintain the status quo exacerbate the problem. Capacity must be built within the United Nations and other intergovernmental organizations. This requires enhanced cooperation between agencies and the integration of climate change and human rights throughout the mechanisms of the United Nations, including the General Assembly, the Human Rights Council, special forums, the universal periodic review, treaty bodies and special procedures. More broadly, capacity-building can move forward by establishing a new annual or biennial forum where States and all relevant stakeholders, including academic experts, civil society organizations and representatives of those segments of the population most vulnerable to climate change, can engage the issues surrounding climate change and human rights, such as the concepts of “common but differentiated responsibility,” “equity,” and the “right to development.” Further, a seminar or workshop on climate change and human rights should be held as a side event at the eighteenth session of the Conference of Parties in 2012.

71. Third, many suggestions were made in support of appointing a special mechanism such as a Special Rapporteur or Independent Expert on the issue of climate change and human rights. Such a special-procedure mandate might focus on mainstreaming the issue of climate change and human rights within the United Nations and, in particular, within the existing mandates of the various special procedures. It would also be the focal point of the human rights system in interactions with the climate negotiations. Other worthwhile tasks might include documenting effective practices, mainstreaming a human rights-based approach to climate change, or developing language for a new legal instrument. To support this new special procedure, existing mandate holders should be called on to integrate climate change and human rights into their activities and to bring relevant linkages to their issues before the Human Rights Council, the General Assembly and the various agencies and bodies that they cooperate with.

72. Fourth, the existing climate finance architecture requires structural and conceptual change. Climate finance must no longer be characterized as charitable contributions from developed countries, but rather it must be acknowledged as a responsibility required of developed countries for their disproportionate responsibility for greenhouse gas emissions and for the disparate effects felt by developing countries. Climate finance must also address human rights issues directly by incorporating human rights language. It must be adequate, predictable and equitable, and it must be democratically governed so that countries participate on an equal basis. Finally, climate finance should be structured so that developing countries are able to provide input as to how they receive financial support.

73. Finally, the need for technology transfer is urgent. It is not sufficient that developed countries generate mitigation and adaptation methodologies if these are not passed along to benefit people living in developing countries and small island States. Failure to engage in technology transfer will either result in developing countries abandoning their right to development or becoming the new contributors to greenhouse gas emissions and exacerbating the effects of climate change.