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of Human Rights and Environment:  
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**DRAFT PAPER ON:**

**Benefits of linking the Human Rights and Environment Agenda: The Example of  
Human Rights and Climate Change**

**Presentation by Mr. Marc Limon, Advisor at the Permanent Mission of the  
Republic of Maldives to the United Nations Office at Geneva<sup>1</sup>**

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<sup>1</sup> The views expressed in this presentation are those of the author alone and do not represent or reflect the official position of any government or organisation.

**Paper on: Policy Benefits of linking the Human Rights and Environment Agenda: The Example of Human Rights and Climate Change**

**Presentation by Mr. Marc Limon, Advisor at the Permanent Mission of the Republic of Maldives to the United Nations Office at Geneva<sup>2</sup>**

Dear colleagues, friends, ladies and gentlemen,

I would like to start by thanking UNEP for its vision and foresight in organising today's meeting as well for inviting me to participate. It is wonderful to see that the Maldives-led resolutions in the Human Rights Council on human rights and climate change have given rise to such fresh-thinking and fresh debate.

Ladies and gentlemen,

Earlier this month, Mr. Kumi Naidoo took over as the new Head of Greenpeace. The occasion was relevant to this meeting for two reasons.

First, Mr. Naidoo, who will lead one of the world's largest environmental protection organisations is, by origin, a human rights campaigner, not an environmental activist.

Second, his first speech after becoming head of Greenpeace was unreservedly orientated upon the human experience. It focused on the human impacts of environmental degradation, especially climate change, the links between the environment and human phenomena such as poverty and displacement, and the power of people to bring about change.

Mr. Naidoo's appointment and his words are both extremely welcome and extremely significant because they are representative of a growing tendency to see the human world and the natural world not as separate or competing spheres, but as fundamentally and mutually connected.

This trend is particularly gratifying from the perspective of the Maldives, because giving environmental degradation – specifically climate change – a “human face” was the original aim of the country's Human Dimensions of Climate Change campaign which, *inter alia*, gave rise to Human Rights Council resolutions 7/23 and 10/4 and, inadvertently, to this week's meeting.

Mr. Chair,

I have been asked today to address the policy benefits of the movement to link the environment and human rights agendas. I will do so by taking as an example, the burgeoning international agenda on human rights and climate change. What is the rationale behind drawing linkages between human rights policy and climate change policy? Why did this

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become necessary? What are the benefits for both international climate change law, and for international human rights law? And what can we learn from this in order to inform any new future for human rights and the environment?

I will begin by providing a short history of the movement to highlight, explore and exploit the interface between human rights and climate-related environmental degradation.

I will then look at the policy benefits of this approach.

I will argue that linking the human rights and climate change agendas brings clear benefits to both environmental policy, and to human rights policy. *Both* areas of policy stand to gain because they complement each other. In broad terms this is because, as the 1972 Stockholm Declaration reminded us: “Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights the right to life itself”; and is also because whereas international climate change policy emphasises equity *between* nations, international human rights law has much to say on equity *within* a given State.

I will conclude by suggesting that any new initiative on formalising the human rights and environment nexus, or on defining environmental rights, should capture and build on the benefits which I will describe across *both* the environmental and human rights agendas.

Mr. Chair,

The international agenda on human rights and climate change, which has in turn re-energised the broader debate on the utility of environmental rights, is a relatively recent phenomenon. It is only since 2005 that a small group of vulnerable States, indigenous groups, non-governmental organisations and academics have begun to take a series of separate yet mutually-reinforcing steps to understand, highlight and leverage the linkages between climate change and human rights.

The impetus for this new agenda was three-fold:

1. There was a general frustration on the part of vulnerable communities at the slow pace of progress in tackling climate change using the traditional politico-scientific approach. This in turn suggested that a new supplementary framework was needed;
2. There was a growing sense on the part of these groups that, with a scientific consensus now largely in place, it was time to shift the debate onto the victims of the problem – namely individual people and communities around the world.
3. Vulnerable communities became increasingly frustrated at the lack of any kind of accountability mechanism to deal with a phenomenon caused by man and which has devastating human consequences. This frustration was heightened by their understanding of the unequal power relationships underpinning global warming.

From the perspective of the Maldives and other Small Island States, the launch-pad for their involvement in the human rights and climate change agenda was the November 2007 Human Dimensions of Climate Change conference in the Maldives. Although the conference had a strong human rights focus, it was made clear throughout that applying a rights-based approach was not an end in itself, but rather a tool or a channel to bring the human experience to the centre-ground of what had hitherto been a predominantly environmental debate. The aim, in

other words, was to change the conversation on global warming by rejecting the notion that climate change is an environmental problem and that quality of human life a human rights problem, and instead embracing the idea, as espoused by Mr. Naidoo, that both should be viewed together.

The outcome of the meeting – the Male’ Declaration on the Human Dimension of Climate Change – stated explicitly (and for the first time in an international agreement) that “climate change has clear and immediate implications for the full enjoyment of human rights” and called on the United Nations human rights system to address the issue as a matter of urgency.

The Declaration essentially laid down a roadmap for taking forward the human rights-climate change agenda. This involved three key steps: (1) the Human Rights Council was called on to actively consider the human rights implications of global warming by holding a dedicated debate on the matter; (2) the Office of the High Commissioner for Human Rights [OHCHR] was asked to conduct a detailed study into the effects of climate change on the full enjoyment of human rights in order to inform the Council’s considerations; and (3) both the Council debate and the OHCHR report were to be fed into the ongoing UNFCCC climate change negotiation process.

Mr. Chair,

One of the great successes of the human rights-climate change agenda is that this roadmap has been followed to the letter.

As of this month, each of the three steps set down in Male’ has been completed. Despite early resistance, especially from major oil consuming and oil producing countries, the Human Rights Council has actively considered the linkages between climate change and human rights on three occasions – in March 2008, March 2009 and June 2009, the OHCHR has produced a groundbreaking report into that relationship, and the Council has adopted two resolutions on the subject, each by consensus and each with unprecedented levels of support. What is more, many of the ideas and concepts developed by the Council have been integrated into the ongoing negotiations for a new international climate change treaty. Between them, these actions have created a strong framework for understanding and leveraging both the climate change-human rights nexus, and the broader environment-human rights nexus.

Mr. Chair,

Since the release of the Male’ Declaration and the first discussions on climate change in the Human Rights Council in March 2008, there has been a remarkable cross-fertilisation of ideas between human rights and environmental law makers. It is my belief that there is a growing sense among policy-makers that weaknesses in environmental law can be usefully addressed by borrowing from and linking with human rights policy, and a corresponding sense among human rights practitioners that transnational environmental degradation highlights important problems with the traditional state-centric conceptualisation of human rights, and that, consequently, a greater understanding and recognition of environmental factors in human rights policy is needed.

This trend can be clearly seen in the UNFCCC negotiations where delegates are, as we speak, working on how to integrate human rights, at a principled-level, into the Shared Vision on Long-Term Cooperative Action, and at a practical-level into the agreement on Enhanced

Action on Adaptation. The fact that they are even willing to consider human rights language is a remarkable turnaround on only two years ago. The trend can also be seen in the Human Rights Council where State representatives are increasingly faced with the reality, in our globalised world, that individual human rights cannot be promoted and protected by national governments acting alone, but rather are increasingly sensitive to transnational phenomena, such as the climate crisis, the financial crisis, or the food crisis. This is leading to a high-level of tension between the competing visions of human rights held by developed and developing countries.

Mr. Chair,

I will first address the benefits that this cross-fertilisation of ideas has brought and can bring to environmental law and policy. I will again use climate change policy as a case study.

Broadly speaking, the benefits for environmental policy can be divided into two:

First, integrating human rights thinking brings an increased appreciation, in environmental discourse and policy, of the centrality of the human experience, and also provides a lens through which we can understand that experience.

A human rights perspective or a “human rights lens” helps shift the focus of international debate more directly onto individuals and the effects of climate change on their lives. In other words, a focus on fundamental freedoms helps to *humanise* a debate that had previously been viewed as the sole property of the natural sciences. This is more than just a conceptual point – it in fact has critical implications for the ambition and urgency attached to efforts to arrest climate change. It is far harder for world governments to remain ambivalent in the face of human suffering, especially when that suffering is on a global scale and is man-made, than is the case with physical phenomena such as melting icecaps or bleaching coral. What is more, a focus on human relations has allowed for the emergence of important new concepts of accountability and climate justice; concepts which seek to highlight and respond to the unequal power relationships between rich and poor, between haves and have-nots, that underpin and sustain the climate crisis.

Indeed, it is my sense that this *humanisation* of climate change has, over the past few years, become firmly established in reality. A cursory glance through any newspaper will reveal any number of new studies on the disproportionate and unjust impacts of global warming on the poor, on women, on children, or on migrants.

Second, human rights principles can improve environmental policy-making and policy-implementation by emphasising equity *within* States. It is clear that, as well as shifting attention on to the plight of individual people, human rights is also useful in that it emphasises that all of those people, irrespective of where they live, their gender, their wealth, or their age, are equal under international law.

By emphasising equality and non-discrimination, human rights principles have the power to ensure that policy responses to climate change or other forms of environmental degradation are premised on protecting and helping those segments of the population most at risk. Linked with this, human rights, especially procedural rights, help by ensuring that those same vulnerable population groups have access to information on the threats facing them, and can participate in relevant decision-making processes.

Indeed, Council resolution 10/4 clearly promotes the concept of equality and non-discrimination in the face of climate change, as well as the importance of procedural rights for effective environmental policy-making. Pre-ambular paragraph 8 states that: “while these implications affect individuals and communities around the world, the effects of climate change will be felt most acutely by those segments of the population who are already in vulnerable situations owing to factors such as geography, poverty, gender, age, indigenous or minority status and disability”, while pre-ambular paragraph 10 affirms that “human rights obligations and commitments have the potential to inform and strengthen international and national policy-making in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes”.

It is also important to note that these concepts have found their way from resolution 10/4 into the current UNFCCC negotiating text.

Mr. Chair,

Although these examples are taken from the human rights and climate change agenda, it is clear that the benefits I have just mentioned - namely environmental problems a human face, increasing the moral and ethical impetus to act, introducing concepts of accountability, justice and non-discrimination, and encouraging the development and implementation of policies in a way which promotes equity - are equally relevant for other areas of environmental policy.

But this only tells half the story. As well as understanding the benefits that linking environment and human rights can bring to environmental policy-making, it is equally important to address the benefits of this cross-fertilisation for human rights law and mechanisms.

There have been four broad benefits, from a human rights perspective, in linking the human rights and climate change agendas.

First, by confirming that climate change has a range of significant implications for human rights, the Human Rights Council has drawn attention to a major gap in the international human rights conventions – namely the lack of an explicit right to a safe and secure environment, or at least the lack of a strong UN framework for understanding and codifying the human rights-environment nexus. It is clear that climate change itself does not directly affect human rights. Rather global warming causes environmental change, which in turn affects human rights. Thus, to properly protect and promote human rights – all of which are dependent on a safe and secure environment – it is clearly necessary to give renewed attention to the relative merits of declaring environmental rights at international level.

A second benefit of linking the human rights and environment agenda, through resolutions 7/23 and 10/4, is that we now have a fair better understanding, at UN-level, of the presence and the character of the relationship between the two. In the negotiations on resolution 7/23, many States, especially major oil consuming and oil producing States, refused to accept that there was any linkage whatsoever between climate change impacts on the one-hand, and human rights on the other. In-other-words States could not agree on whether there is any link between the environmental and human rights. Today, following the adoption of resolution 10/4 and the June Council debate on climate change, there is not only a clear consensus on the *existence* of is a strong relationship between climate change-related environmental

degradation and human rights, but also on the broad *parameters* of that relationship. Regarding the latter point, there was a clear consensus in March and June, on which human rights are most affected by environmental harm, on which populations groups are most vulnerable, and on the fact that climate change is founded upon a fundamental injustice illustrated by the inverse relationship between responsibility for climate change and vulnerability to its impacts.

The construction of this consensus provides a strong foundation for reenergising the broader human rights-environment agenda, either by re-negotiating Human Rights Resolution 2005/60 on human rights and environment, or by tabling a new proposal at the General Assembly.

A third benefit of linking human rights and climate change is that it has revealed and brought out into the open a fundamental weakness in the application of human rights law in situations where the pressures on or challenges to human rights are transnational in nature.

This weakness was dealt with extensively by the OHCHR in its report to the Council, and was also the source of strong disagreement between developed and developing States during the June Council debate.

The broad parameters of the disagreement are as follows.

Developed countries insist that while the climate crisis may be international in scope, human rights promotion and protection is the sole purview of national governments vis-à-vis their citizens and others within their jurisdiction. It is therefore up to individual States to promote and protect the human rights of their people in the face of such crises, irrespective of the additional burden placed upon them.

On the other side, developing countries, led by the most vulnerable States, argue that in order to effectively protect human rights in the face of climate change, observance of national-level commitments must necessarily be combined with respect, on the part of the international community, for extraterritorial human rights obligations – most particularly the obligation “to refrain from taking action which interferes with the enjoyment of human rights in other countries and to take steps through international cooperation to facilitate the fulfilment of those rights”.

In its report on human rights and climate change, the OHCHR attempted to straddle and reconcile these two positions by arguing that all States, irrespective of the additional strain placed on them by climate change, remain under an obligation to ensure the widest possible enjoyment of human rights, but that, equally important, parallel, and mutually-inclusive obligations are held at the international-level.

Under these international or extraterritorial human rights obligations, States have a responsibility to:

1. Refrain from interfering with the enjoyment of human rights in other countries;
2. Take measures to prevent third parties (e.g. private companies) over which they hold influence from interfering with the enjoyment of human rights in other countries;

3. Take steps through international assistance and cooperation, depending on the availability of resources, to facilitate the fulfilment of human rights in other countries;
4. Ensure that human rights are given due attention in international agreements and that such agreements do not adversely impact upon human rights.

In other words, according to OHCHR, international cooperation to tackle climate change is not only expedient but also a human rights obligation.

The fourth and final benefit of linking climate change and human rights, from the perspective of human rights law, is that it has generated a new and potentially crucial debate around the issue of accountability for human rights harm caused by transnational environmental degradation. In essence, this debate revolves around the question of whether climate change, or any other transnational environmental harm, can be called a violation of human rights, in a strict legal sense.

The OHCHR in its report, presents a number of arguments why it is difficult to do so; and has been strongly supported in this regard by large industrialised nations. However, many developing countries, especially during the June Council debate, openly questioned these arguments and stated on record that those countries which have imposed climate change on the rest of the world are guilty of having violated the human rights of people in vulnerable countries and should be held accountable.

This is quite a technical debate, which I will not go into here; however, like the question of whether international cooperation to protect the environment can be considered a legal obligation under human rights law; the question of whether State A can be held accountable for violating the human rights of an individual in State B by knowingly undermining his or her natural environment, has crucial long-term implications for both human rights law and environmental policy.

Mr. Chair,

These are some of the benefits, from both an environmental policy and a human rights policy perspective, of linking the two agendas.

To be useful, for both environmental protection and the enjoyment of human rights, any new strategy to take forward the human rights-environment agenda, including through the possible negotiation of a new international agreement on environmental rights, should aim to encapsulate and build-on all these benefits.

Doing so will not be easy. While there does seem to be a consensus among States that human rights principles such as equity, non-discrimination, access to information, and access to decision-making, can and should strengthen international and national policy-making on environmental matters; as well as broad consensus on the presence and the basic nature of the relationship between the environment and human rights; there is no agreement at all on key issues such as whether States should be obliged to respect the human rights of people in other countries by, for example, reducing CO<sub>2</sub> emissions to safe-levels, or whether, if they do not, they can be said to have violated those human rights and be held accountable.

Thank you.

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