

CLIMATE JUSTICE: A RULE OF LAW APPROACH FOR TRANSFORMATIVE CLIMATE ACTION



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EXECUTIVE SUMMARY

Climate change is a defining challenge that will undermine achievement of the Sustainable Development Goals (SDGs). As the world grows hotter, drier, and harder-hit by extreme weather events and the effects of sea level rise, climate change will act as a threat multiplier, disrupting livelihoods, driving displacement and migration, intensifying scarcities of natural resources which can drive violence and conflict, and raising pressure on state-citizen relations and state capacity to advance development. The people most vulnerable to the effects of climate change are those who already experience systematic exclusion and marginalization. Women and girls, youth and children, indigenous peoples, and climate migrants will bear the brunt of the impact.

With its emphasis on rule of law as an enabler of peace, justice and inclusion, SDG 16 can help promote transformative climate action, or what is referred to in this Policy Brief as *climate justice*. “Climate justice” has been used to describe a wide range of legal and policy approaches to addressing climate change. At the core of this diverse set of definitions is the realization that issues of justice are inextricably linked to the causes of climate change and that addressing them must be an essential part of the solution.

Key elements of achieving transformative climate action through the rule of law include:

- Empowering the most climate-vulnerable people to realize environmental rights and actively participate in decision-making processes
- Strengthening regulatory frameworks and institutional capacity for climate-resilient development
- Improving governance of land and other natural resources with a focus on enhancing land rights and sustaining peace

This Policy Brief advances seven rule of law-based policy recommendations to accelerate transformative climate action:

- 1 Empower climate-vulnerable communities and people
- 2 Invest in people-centered laws and institutions to promote transformative climate action
- 3 Champion feminist climate action and integrate gender-transformative approaches
- 4 Strengthen prospects for sustaining peace and stability by preventing and resolving climate-related disputes
- 5 Engage with customary, informal and indigenous justice systems to protect biodiversity and promote sustainable use of natural resources
- 6 Harness the transformative potential of the rule of law to address the intersecting effects of climate change
- 7 Mobilize global multi-stakeholder coalitions to accelerate climate action

INTRODUCTION

The 2030 Agenda for Sustainable Development recognizes that climate change is a transversal challenge that will undermine achievement of the Sustainable Development Goals (SDGs)¹. As the world grows hotter, drier and harder-hit by extreme weather events and the effects of sea level rise, prospects of achieving the SDGs, including SDG 16 on peaceful, just and inclusive societies, are at risk². Climate change “amplifies existing risks and creates new risks for natural and human systems”³. It acts as a threat multiplier, disrupting livelihoods, driving displacement and migration, intensifying scarcities of natural resources which can drive violence and conflict, and raising pressure on state-citizen relations and state capacity to advance development. The impact of climate change cuts across all aspects of the sustainable development agenda, posing

urgent challenges not only to environmental conservation, but to the protection of human rights, food security and nutrition, global public goods such as health, and progress toward a more peaceful world. Urgent action is needed to mitigate the causes of climate change by rapidly reducing greenhouse gas emissions while adapting to the effects of climate change that cannot be avoided.

As the only global intergovernmental organization exclusively devoted to promoting the rule of law as an enabler of peace and sustainable development, IDLO champions people-centered justice and works to ensure inclusive, equitable and effective responses to the climate crisis. This Policy Brief highlights three key elements central to accelerating climate justice through the rule of law as summarized below.



Empowering the most climate-vulnerable people to realize environmental rights and actively participate in decision-making processes



Strengthening regulatory frameworks and institutional capacity for climate-resilient development



Improving governance of land and other natural resources with a focus on enhancing land rights and sustaining peace

Applying a justice lens to climate action

The causes and effects of climate change as well as the actions needed to address them are closely linked to issues of justice and equity. The people most vulnerable to the effects of climate change are those who already experience systematic exclusion and marginalization, and will be disproportionately affected⁴. People living in least-developed, fragile and conflict-affected contexts are the most exposed, due to a combination of geographic factors, economic systems reliant on climate-threatened sectors such as agriculture and pastoralism, and limited institutional capacity to address climate risks⁵. Women and girls, youth and children, indigenous peoples, climate migrants and other excluded and marginalized constituencies bear the brunt of the impact. As the effects of climate change undermine the realization of human rights and the SDGs, equitably distributing the burden of mitigating its causes, and the benefits of adaptation to its consequences, is of cardinal concern⁶.

Transformative climate action requires wide-ranging and coordinated political, economic and social changes underpinned by the rule of law. This can only be achieved through a human rights-based approach, multilateral cooperation, international solidarity and multi-stakeholder partnerships⁷. As many observers have noted, the recovery from the COVID-19 pandemic also represents a unique opportunity to “reassess earlier

commitments, readjust previous policies, and redirect [...] resources” in a more fair and equitable manner⁸. Without such inclusive, equitable and effective policies and institutions, the climate crisis will bring about more inequality, more injustice and less peace in the long term.

With this understanding, the concept of climate justice uses a people-centered lens to accelerate climate action, while ensuring the rights of the most vulnerable and disproportionately affected are protected, people are legally empowered, access to justice is guaranteed, institutions are effective, accessible and accountable, and there is broad participation in climate decision-making. Climate justice seeks to amplify the voices of marginalized communities who are most affected by the impacts of climate change, acknowledges the needs of future generations, and recognizes the varied and disproportionate effects of climate change, as well as people’s diverse needs in responding to it.

Working at the intersection of SDG 13 (climate action) and SDG 16 is key to achieving climate justice. With its emphasis on strengthening the rule of law and achieving justice for all, SDG 16 can enable transformative, more inclusive, equitable and effective climate action, while ensuring that the costs and benefits of climate mitigation and adaptation measures are distributed fairly, and that the most climate-vulnerable people are not left behind.

What is climate justice?

The term “climate justice” is used to describe a wide-ranging set of legal and policy approaches to addressing climate change. At the core of a diverse set of definitions is the realization that addressing justice issues must be part of the response to climate change. IDLO’s approach to climate justice seeks to advance bold and ambitious climate action by:

- Linking human rights and development to tackle pre-existing vulnerabilities and inequalities contributing to and exacerbated by climate change.
- Prioritizing the most climate-vulnerable to ensure that no one is left behind.
- Ensuring fair and inclusive climate decision-making, particularly for people and groups traditionally excluded from such processes.
- Investing in people-centered laws and institutions to enable ambitious climate action while equitably distributing costs and benefits of climate mitigation and adaptation measures.
- Building justice systems that can resolve climate-related disputes, while protecting the environmental rights of people and communities, including the rights of future generations.



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EMPOWERING THE MOST CLIMATE-VULNERABLE PEOPLE TO REALIZE ENVIRONMENTAL RIGHTS AND PARTICIPATE IN DECISION-MAKING PROCESSES



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As climate change aggravates existing inequalities, it will produce different effects for the most vulnerable and excluded constituencies. Those who are most vulnerable to climate change are often those least able to access justice or make their voices heard in governance processes.

Climate justice requires transformative climate action based on the rule of law to address intrinsic inequalities among constituencies and ensure that climate policies place the most climate-vulnerable people at the forefront of the climate agenda, supporting them to claim and defend their environmental rights and

contribute to policymaking. This includes gender-transformative approaches across all aspects of climate mitigation and adaptation, youth- and child-friendly approaches to public consultation and policy development, recognition of indigenous and customary rights to land and resources, and establishment of specific justice pathways for climate migrants and other vulnerable groups. Protection of civic space for grassroots mobilizing and advocacy, environmental and human rights defenders and especially women and indigenous people, should also be prioritized.

Women and girls

Women and girls are differently and often disproportionately affected by climate change⁹. The impacts of climate change reinforce pre-existing gender inequalities: gendered differences in livelihood strategies and entrenched socio-economic inequalities, coupled with lack of representation and voice in decision-making processes, limit the opportunities women have to ensure their needs are adequately addressed¹⁰. Research indicates that climate change increases sexual and gender-based violence (SGBV), as SGBV may be used to control women's access to natural resources in the context of scarcity and degradation, or as a deterrent against women mobilizing for their environmental rights¹¹. SGBV also tends to increase after natural disasters, in the event of prolonged displacement and in times of conflict¹². Similarly, women are highly dependent on customary and informal governance structures to access land and other natural resources. Such structures tend to reinforce patriarchal and conservative social norms and power relations, diminishing women's ability to realize their rights to land and food in a context of scarcity¹³. Ensuring equal access to justice, the enactment of inclusive and effective climate laws and policies, and women's meaningful participation in climate decision-making necessitates the adoption of a gender-transformative, rule of law-based approach, taking into account the specific vulnerabilities of women and girls and seeking to shift gender relations toward equality and non-discrimination¹⁴.

Climate justice encompasses gender-transformative approaches to legal, institutional and regulatory processes related to climate and biodiversity, leveraging and scaling up the ability of

women and girls to ensure that gender-just climate solutions are developed and implemented at all levels. Evidence demonstrates that women's participation in decision-making around the use of land and natural resources results in greater inclusiveness and responsiveness to people's needs¹⁵. For example, if women had the same access to productive resources as men, they could increase farm yields by 20 to 30 percent, reducing overall hunger by 12 to 17 percent¹⁶. Providing consistent opportunities for the meaningful participation and leadership of women at local, national and international levels would lead to more inclusive and responsive policies, better-suited to achieving transformative climate mitigation and adaptation that benefits the whole of society. For women to have a central role in climate action and decision-making at all levels, women-led movements and civil society organizations must have technical and financial support. The protection of civic space for women environmental defenders and activists must also be a priority.

Youth and children

The countries most vulnerable to the adverse effects of climate change are those where youth and children constitute the largest share of the population¹⁷; 7 of the 10 countries most at-risk from the effects of climate change are in the Global South, with young and fast-growing populations.¹⁸ Youth and children experience specific and unique obstacles to realizing their rights, accessing governance institutions, or obtaining a remedy when their rights are denied or violated. Due to conservative and gerontocratic cultural norms and patterns of systematic exclusion, youth and children often experience discrimination based on age. They also face constraints on



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their participation in civic life and political decision-making and lack the same recourse to formal and informal justice systems as adults. Youth and children are deprived of many of the most basic tools of agency and participation; as such they are disproportionately affected by the harms of climate change¹⁹ and unable to make their voices heard in public decision-making, or influence policy responses. The harms of climate change are most disproportionately experienced by young women and girls, and those youth and children from the poorest households, indigenous communities and displaced populations.

Legal education and empowerment of youth and children, the integration of youth- and child-inclusive approaches to justice in law and in practice, and support for their participation in public decision-making on issues that impact their lives, such as climate change, can ensure that youth and children benefit equitably from climate justice. Empowering youth groups and providing them with adequate channels and platforms to voice their interests is critical to overcome the practical, social and legal barriers that prevent young people from upholding their environmental rights and achieving climate justice now and for future generations. To this end, youth and child

participation must be mainstreamed in global climate events and negotiations, as well as in international, national and local justice and policy processes. Access to justice must be guaranteed to ensure the interests and legal needs of young people and children are protected.

Indigenous peoples and local communities

Climate change has the greatest impact on those most dependent on natural resources for their livelihoods, those with the least capacity to respond and adapt to natural hazards, and those most excluded from the exercise of state power. Indigenous peoples and local communities (IPLCs) occupy over 20 percent of the Earth's territory²⁰, and are custodians of 80 percent of the planet's biodiversity²¹. Yet while they constitute a fraction of the world's population, they account for 15 percent of the very poorest,²² a situation exacerbated by the growing impact of climate change and biodiversity loss. Indigenous peoples tend to be excluded from state decision-making processes at national and local levels, often preventing them from advocating for their rights and interests. This is despite recent progress in the development of platforms

and mechanisms designed to empower IPLCs vis-à-vis the climate agenda, such as the Local Communities and Indigenous Peoples Platform at the UN Framework Convention on Climate Change (UNFCCC), or certain provisions of the Escazú Convention, providing for the inclusion of indigenous communities' perspectives in environmental matters.

Better access to justice and empowerment of local constituencies are required to ensure that indigenous rights are safeguarded and to facilitate the participation and leadership of IPLCs in climate action policymaking. Promoting indigenous rights over land consistent with international commitments such as the UN Declaration on the Rights of Indigenous Peoples, supports indigenous livelihoods and reduces poverty, while also leveraging indigenous knowledge to improve ecosystem conservation. Incorporating IPLCs in the creation of national and international climate and biodiversity policies, and ensuring that principles such as free, prior and informed consent are applied, can help mitigate the risks that climate change poses to their ways of life. It is also essential that adequate civic space exists for indigenous-led organizations and advocacy to thrive, and that indigenous environmental defenders are protected from the violence and intimidation that they often face.

Climate migrants

By one estimate, more than 200 million people may be displaced by climate-induced natural disasters and conflict in the next 25 years,²³ and hundreds of millions more may choose rural-urban, coastal-inland or transboundary migration as a strategy for coping with the adverse effects of climate change²⁴. Climate change is

expected to intensify the conditions that drive migration, mainly from the poorest and most climate-vulnerable areas. Climate-driven mixed migration, including voluntary regular or irregular migration within and between countries, planned relocation and forced displacement - both temporary and permanent - will continue to be a significant global development challenge.²⁵ Rapid and unregulated urbanization, characterized by the emergence of informal peri-urban settlements denied formal legal status, will increase significantly.

Safeguarding the rights of climate migrants within their own countries, in transit, or in countries where their legal status may be contested, will be a key twenty-first century global challenge. Once climate migrants are on the move, they often face violations of basic rights, coercive violence, food insecurity, lack of access to land and other natural resources, and discrimination in or exclusion from vital public services. Ensuring that climate migrants, irrespective of origin, identity or legal status, can access effective, accountable pathways to justice (including administrative justice, vital for unlocking the benefits of public services) and resolve conflicts with host communities will require legal innovations and a robust focus on the rule of law and human rights. Dynamic rule of law frameworks to enhance the realization of basic rights by informal peri-urban communities, and to restore the rights to housing, land and property of those returning to their countries and communities of origin, are urgently needed. Finally, transnational and rights-based rule of law responses to migrant smuggling should be developed to reduce the often highly gendered harms of illicit migration flows.²⁶

STRENGTHENING REGULATORY FRAMEWORKS AND INSTITUTIONAL CAPACITY FOR CLIMATE-RESILIENT DEVELOPMENT

Climate justice requires fair and effective regulatory frameworks that strengthen accessibility and accountability. States must be able to integrate their international obligations on climate mitigation and adaptation into domestic law and enhance their institutional capacity to address the harshest consequences of climate change and biodiversity loss in line with those commitments. Securing prospects for climate-resilient development will depend not only on adopting or reforming appropriate laws and policies and integrating a rights-based perspective into climate action strategies and plans, but also on ensuring that justice institutions, both formal and informal, have the capacity to deliver on the promise of climate justice. Efforts will be necessary to ensure that the rule of law is the bedrock of an attractive investment environment for climate finance, and that transformative climate action enabled by a justice and rule of law perspective is integrated across other priority policy areas, notably health and food security. Rule of law approaches can strengthen coordination within and between different sectoral institutions while protecting human rights, avoiding some of the unintended side effects of climate action that might increase social tensions and conflict risks.²⁷

Regulatory frameworks and justice sector capacity development

Climate law reforms are a pressing need for most countries. Climate justice requires participatory approaches to both Nationally Determined Contributions and National Adaptation Plans, which must include the active participation of the most climate-vulnerable groups.²⁸ Climate concerns must be mainstreamed across public institutions, including the justice sector, to ensure that climate-resilient development is systematically and consistently advanced across society.

Without institutions capable of delivering people-centered justice on climate and environmental matters, countries will be unable to fulfill their commitments to climate-resilient development. Bolstering the capacity of justice sector institutions to address important environmental issues is key to advancing the climate agenda and ensuring that pathways to justice are accessible, inclusive and accountable. This is essential to supporting climate-vulnerable populations to realize their rights and hold those in power accountable. In this context, the justice sector must be seen to include

not only formal, state-authorized courts but also customary and informal justice (CIJ) actors that are vitally important for the governance and management of land and other natural resources in much of the world.²⁹

Specific approaches to strengthening justice sector capacity to advance climate-resilient development may include mainstreaming climate analysis in justice sector training, planning and evaluation practices; providing support to judicial and oversight bodies to incorporate analysis of climate impacts and adaptation approaches in laws, policies and standard operating procedures; and improving channels of consultation for regular exchange between justice sector institutions and environmental regulatory bodies. It will be important to strengthen both formal and customary and informal justice mechanisms to facilitate better access to justice and increase participation of climate-vulnerable people in justice administration, and to foster coordination and coherence across formal and customary and informal justice providers responsible for natural resource management to ensure a collaborative approach to climate and justice issues. Further, it may be necessary to strengthen redress mechanisms for climate justice seekers by supporting the establishment or enhancement of specialized environmental courts and tribunals, a measure already in place in some 40 countries to date.³⁰

Fostering a rule of law approach to climate finance

The rule of law can be a powerful enabler of national and global climate finance mechanisms supporting the transition to a low-carbon future. Resources on a vast scale have been mobilized for climate finance initiatives such as the Global Environment

Facility (GEF), Reducing Emissions from Deforestation and Forest Degradation (REDD+), and the Green Climate Fund (GCF). These mechanisms, together with multilateral development banks, bilateral donors and private sector initiatives, marshal over \$70 billion in climate finance for developing countries annually.³¹ However, common barriers to accessing climate finance, including inadequate legal and regulatory frameworks, limited enforcement ability, weak organizational capacity and the absence of effective governance, negatively affect the provision of and access to financial resources to combat climate change.³²

In this context, rule of law-based policies and legal frameworks can support public and private sector actors in accessing international climate finance for mitigation and adaptation purposes. Environmental integrity, transparent governance, respect for human rights and the protection of social well-being are integral parts of climate justice. Incorporating a whole-of-government approach is crucial to ensure that social and environmental concerns are considered throughout the decision-making process for projects attracting climate finance, and that venues are established for affected communities to address issues of concern and resolve disputes regarding those projects. It is essential to ensure that transparency mechanisms are in place, and that actors involved in climate adaptation and mitigation projects demonstrate accountability. This will also increase donor and private sector confidence in investing in climate action. Climate finance mechanisms themselves must respect international human rights standards, such as the right to participation, access to information, and prior and informed consent.³³

Advancing the right to health for climate justice

The right to health is a fundamental human right and is indispensable for human well-being, well-functioning societies and economies, and for the ability to exercise all other human rights. Realizing the right to health is a legal obligation enshrined in the United Nations International Covenant on Economic, Social and Cultural Rights and other international and regional treaties, as well as in the constitutions and statutes of many States. Climate change is the greatest threat to human health in the twenty-first century. It affects many social and environmental determinants of health including through desertification, drought, flooding, extreme weather including heat and storms, sea level rise and salination of ground water, and changes in patterns of disease vectors. Health impacts include increased cardiovascular and respiratory diseases, malnutrition, malaria and other vector-borne diseases, diarrhea and heat stress. Mental and behavioral health conditions resulting from climate change range from anxiety, depression and alcohol and substance abuse to post-traumatic stress and suicide. As with many aspects of climate change, risks are unevenly distributed across societies, with the most vulnerable constituencies at higher risk of morbidity and mortality.³⁴ Climate change will stretch the capacity of health systems: they must be strengthened in ways that enable them to remain effective and efficient in the face of uncertainty and responsive to the needs of the most climate-vulnerable. As with the COVID-19 pandemic, climate change is again demonstrating that rule of law and good governance are indispensable to strengthen governance and institutions so that the right to health can be realized for all, including climate-vulnerable communities.³⁵

A people-centered rule of law approach can be used to design and implement policies, programs and strategies that manage the risks of climate change on human health. This can include integrating human health considerations into Nationally Determined Contributions, National Adaptation Plans and other adaptation and mitigation policies, and promoting population health as a key consideration in the climate action agenda. It can also include strengthening civil society capacity to use legal empowerment and social accountability approaches, including strategic litigation, to hold decision-makers to account;³⁶ bolstering legal regulations to address public health emergencies resulting from climate change; developing climate-informed health interventions; and enhancing preparedness and resilience to emerging or increasing human health risks associated with climate change.

IMPROVING GOVERNANCE OF LAND AND OTHER NATURAL RESOURCES WITH A FOCUS ON ENHANCING LAND RIGHTS AND SUSTAINING PEACE

Billions of people rely directly on land and other natural resources, such as water and forests, for their survival and prosperity. The effects of climate change on land and natural resources are likely to undermine food security for millions, with the most deleterious effects for the most climate-vulnerable. Climate change drives up competition for increasingly scarce arable land and water, fueling dispossession and land-grabbing, criminal exploitation of land and natural resources, conflict and displacement.³⁷ Because of land insecurity and dysfunctional land tenure systems in many countries, land is one of the central issues around which people seek justice solutions.³⁸ The most excluded and marginalized people - women, youth, indigenous people - struggle to claim and resolve disputes over land in a timely, fair and consistent manner. Effective justice pathways to sustainable access to and use of land and natural resources are essential not only to the protection of people's rights, but also to prevent conflict and sustain peace.

Inclusive governance and sustainable management of land and other natural resources

The governance and management of land, water, forests and other natural resources

is essential not only to the protection of ecosystems and biodiversity, but also to sustaining life and livelihoods. Smallholder farmers produce an estimated 80 percent of the food consumed in the Global South, but soil degradation, drought and biodiversity loss threaten their socio-economic well-being. Rural communities are dependent on local water sources that are likewise threatened by changes in rainfall patterns, drought and wastage.³⁹ These communities possess unique and valuable contextual knowledge of natural resources and have a vested interest in ensuring the sustainable use of land and resources.

Strengthening adherence to rule of law principles and mainstreaming environmental law across public policy can lead to the effective implementation of nature-based solutions, giving greater agency to the communities that depend on the land the most.⁴⁰ The rule of law improves inclusive governance of land and natural resources, increases climate-resilient development and empowers climate-vulnerable people to actively participate in managing their natural environments, enabling the conditions for peace and development to flourish.⁴¹

Key interventions might include a combination of legal empowerment strategies and protection of civic space, as well as social accountability approaches to advance sustainable and equitable governance and use of land and natural resources. Enhancing formal and CIJ dispute resolution mechanisms on land and other natural resources, strengthening coordination and coherence between formal and customary systems, and supporting customary land governance systems to become more inclusive, responsive and accountable (especially toward women) will have the greatest effect on the most climate-vulnerable. Identifying policy and programming opportunities at the nexus of climate change and other areas, including health and food security, should also be prioritized.

Promoting inclusive governance of land and other natural resources to sustain peace

Climate-related factors such as drought and flooding are significant conflict multipliers.⁴² As the climate becomes hotter and drier and extreme weather events result in ever-scarcer arable land and other natural resources, competition over those resources within and across communities will increase, in some cases leading to violent conflict.⁴³ This risk is most acute when climate-driven scarcities occur in a context of fragility, characterized by poor state-citizen relations and weak management of disputes within a framework of rule of law. Livelihoods based on pastoralism are especially vulnerable to disruption: shifting availability of grazing land and water can cause friction between farmers and herders, exacerbated by the fact that remote and cross-border pastoralist groups often lack influence in national policymaking.⁴⁴ As climate change-induced shifts in access

to land and natural resources make rural livelihoods more insecure, people may be prompted to adopt illicit agricultural production (for example, illicit crops such as poppy and coca are particularly resilient to the effects of climate change) or even violent and criminal activities (for example, by joining non-state armed groups, or engaging in transboundary smuggling of arms and people). Livelihood insecurity can also act as a push factor for rural-urban and transboundary mixed migration.

Inclusive governance of land and other natural resources has the potential to mitigate conflict and sustain peace, for example by facilitating inter-communal cooperation in ways that reduce tension and increase trust. Fostering effective state service provision can also boost state legitimacy and reduce fragility.⁴⁵ Interventions that expand access to justice can address everyday grievances and resolve disputes over land and natural resources through existing statutory and CIJ mechanisms, while establishing fair legal frameworks for environmental protection can promote equitable distribution of the benefits of natural resources in ways that reduce conflict overall. At a macro level, improving the governance of land and other natural resources can foster collaboration and promote peace. Countries should also address the likely expansion of illicit agricultural production and violent activities that may result from the long-term effects of climate change, to ensure these phenomena do not destabilize social order in climate-vulnerable communities and countries.

Curbing the effects of climate change on food security

Climate change and the biodiversity loss it engenders affects food security, nutrition and the stability of food systems.

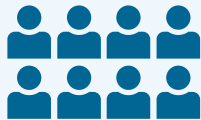


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Increasingly frequent and severe rapid-onset natural disasters damage crop yields and disrupt harvests while slow-onset disasters such as desertification, biodiversity loss and rising temperatures diminish the quantity and quality of food produced. Climate change is a major driver of variations in agricultural production and thus food prices, as the concentration of global crop production in a few regions renders supply chains, markets and prices vulnerable to extreme events in producer countries. Sharp food price increases in countries importing a large portion of their food are associated with social unrest and conflict, as evidenced in the 2010-11 food price crisis that unsettled governments in Africa and the Middle East.⁴⁶ Food insecurity is also an important component of the climate-conflict nexus: in fragile contexts, extreme or unpredictable weather patterns causing food shortages or famine have contributed to armed conflicts, while, in turn, armed conflicts damage agricultural land, disrupt food value chains, and prevent the delivery of humanitarian aid thereby reinforcing existing food scarcities.⁴⁷ Rising food insecurity undercuts and undermines progress across the entire 2030 Agenda.

Effective laws, regulations and justice systems based on the rule of law can promote food security by strengthening environmental rights protection, supporting regulatory frameworks for access to land and food, increasing institutional capacity to enhance resilience to the effects of climate change, and empowering local communities to know and claim their rights. Protecting equitable land access through legal empowerment and other people-centered justice strategies must be at the heart of this. But a rule of law approach to food security should also include, for example, promoting and sustaining conservation and biodiversity policies; implementing resilient agricultural practices and maintaining the genetic diversity of seeds, cultivated plants and farmed and domesticated animals; ensuring that countries meet key targets relating to sustainable food production systems; and protecting civic space that enables people - including the most vulnerable and excluded - to exercise agency in mobilizing and advocating for food security.

POLICY RECOMMENDATIONS



1. Empower climate-vulnerable communities and people

Legal empowerment and protection of civic space can enable people and communities to claim their environmental rights, while inclusive policymaking ensures climate policies are informed by and more responsive to their needs. Priority must be given to people and groups whose lives and livelihoods are most vulnerable to the effects of climate change including women and girls, indigenous peoples and local communities, and climate migrants. Special emphasis must be placed on providing young people with platforms and support and ensuring that youth- and child-inclusive approaches are at the heart of climate action.



2. Invest in people-centered laws and institutions to promote transformative climate action

Effective, inclusive and transparent institutions, particularly in the justice sector, are essential for climate resilient development and the implementation of climate commitments including Nationally Determined Contributions and National Adaptation Plans. People-centered justice systems can foster an investment environment attractive to climate finance mechanisms through reduced corruption, effective contract enforcement and dispute resolution, while allowing those most affected by climate change to seek redress and claim their rights.



3. Champion feminist climate action and integrate gender-transformative approaches

States must work to better understand and address the different and disproportionate impact of climate change on women and girls, combat barriers and discrimination, empower women to claim their rights, and integrate women's active engagement and leadership in climate decision-making at all levels. Dedicated support should be provided for women-led movements and civil society organizations to contribute to global climate and biodiversity negotiations.



4. Strengthen prospects for sustaining peace and stability by preventing and resolving climate-related disputes

Climate change has emerged as a significant driver of conflict in fragile contexts. Strengthening frameworks for governance of land and natural resources, and equitable access to both formal and customary and informal justice mechanisms, can help reduce conflict risks related to contests over natural resources by preventing disputes and resolving them peacefully, while promoting climate-resilient development.



5. Engage with customary, informal and indigenous justice systems to protect biodiversity and promote sustainable use of natural resources

Customary, informal and indigenous actors govern access to land and natural resources for many of the most climate-vulnerable people but are often excluded from decision-making and their rights over natural resources disregarded. CIJ and indigenous systems should be supported to enable inclusive, equitable and effective climate action, uphold indigenous rights, and facilitate the participation and leadership of indigenous peoples and local communities in climate action policymaking at local, national and international levels.



6. Harness the transformative potential of the rule of law to address the intersecting effects of climate change

Climate change has wide-ranging effects on nutrition, health, gender equality, poverty and inequality. The 2030 Agenda provides the transformative framework to advance the integrated and indivisible dimensions of sustainable development. Integrated policy solutions are needed to deliver coherent and coordinated responses to climate change. The rule of law, as articulated in SDG 16, can serve as a powerful enabler for the institutional and policy transformations needed to address the complex transversal effects of climate change, in areas including food and nutrition (SDG 2), health (SDG 3), gender equality (SDG 5) and climate action (SDG 13).



7. Mobilize global multi-stakeholder coalitions to accelerate climate action

Scaling up climate action will require forging new partnerships between States as well as actors from civil society, the private sector, academia, youth and citizens' groups. These new alliances can help ensure strong links between national and global action and generate the political will, governance mechanisms and resources needed for faster and more ambitious climate action. Multilateral frameworks, including the SDGs and UNFCCC, can facilitate international cooperation and foster solidarity and coordinated and intersectoral actions on climate change as well as related global challenges such as conflict and migration, grounded in the rule of law and human rights.

ENDNOTES

¹ Transforming our world: the 2030 Agenda for Sustainable Development, 25 September 2015, United Nations General Assembly Resolution, A/RES/70/1, p. 5, par. 14, pp. 14-15.

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HEADQUARTERS

International Development Law Organization (IDLO)

www.idlo.int | idlo@idlo.int | @IDLO

Viale Vaticano, 106 | 00165 | Rome | Italy

Tel: +39 06 4040 3200 Fax: +39 06 4040 3232

Branch Office

Hofweg 9E | 2511 AA
The Hague | The Netherlands
Tel: +31 070 240 0870
thehague@idlo.int

Office of the Permanent Observer (UN)

336 East 45th Street | 11th floor
New York | NY 10017 | USA
Tel: +1 212 867 9707
newyork@idlo.int

Office of the Permanent Observer (UN)

23 Avenue de France
1202 | Geneva | Switzerland
Tel: +41 22 734 41 40
geneva@idlo.int

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