Climate change and the policies instituted to combat it are affecting the realization of the right to food in myriad, often unnoticed ways. This study highlights how the climate change regime and the human rights regime addressing the right to food have failed to coordinate their agendas and to collaborate to each other's mutual benefit. The current climate change regime fails to accurately address the human harms resulting from climate change itself, and is not operating with the necessary safeguards and preventive measures to ensure that mitigation and adaptation measures are fully complementary to the right to food obligations of states and non-state actors. The study proposes concrete methods by which institutions can address climate change problems and realize the right to food symbiotically, in compliance with the principles of systemic integration under international law.
EXECUTIVE SUMMARY

Introduction: Disconnect between the Climate Change Regime and the Human Rights Framework

Climate change has overwhelming repercussions for international food security and the right to adequate food. Changing weather patterns impact people’s ability to obtain access to sufficient food in many ways: expanding droughts affect crop yields, ocean acidification alters ecosystems and causes fish populations to decrease, and extreme weather conditions destroy entire ecosystems, including the food sources growing within.

Populations already vulnerable to food insecurity are particularly affected by these ongoing climate disruptions, and will be even more so in the future. Populations in developing countries that live on marginal lands on which they depend for their livelihoods will suffer from worsening conditions. Unfortunately, these same populations are ill-equipped to stop climate threats to their food supplies, and they are generally not even the ones most responsible for present climatic changes. While developed countries have started implementing initiatives to reduce greenhouse gas emissions, these measures do not reach far enough to protect vulnerable populations against future harm. Many of these populations lack the requisite financial and technological means to adapt to rapidly changing weather patterns. Worse still, some of the climate change measures have subsequent negative human impacts of their own.

Human choices can influence both the pace of climate change and the extent to which societies will be able to build resilience to its effects. This is where human rights come in. A human rights approach to climate change policies puts people first and takes into account human vulnerabilities in the design of climate change programs. Such an approach also requires that states operate fastest where the right to food is most at risk. More concretely, it requires states to avoid future climate-related food insecurity by limiting their emissions and by controlling with particular vigilance polluting non-state actors within their sphere of control. It also means adopting rigorous policies to cope with unavoidable impacts of climate change. Moreover, a rights-based perspective ensures that measures adopted to combat or cope with climate change do not have adverse effects on human rights of their own. These requirements are not limited to the domestic realm: particularly in the field of social and economic rights like the right to food, states are required to cooperate at the international level to limit current and prevent future human rights violations, even more so when faced with global challenges such as climate change. That said, the rights-based approach does not
merely aspire to achieve a policy program in which individuals at risk passively receive protection; rather, it seeks to empower them by giving them the most relevant information about climate change impacts, granting them a meaningful voice in policy-making processes, and ensuring them a means to hold accountable those most responsible for harm resulting from climate change and related policies.

The current climate change regime shares a core objective with the human rights regime: both aim, at different levels, to protect human dignity for present and future generations. The underlying principles of both regimes also show various parallels. Just as climate change policy sets sustainable global development as an essential principle, human rights approaches seek sustainable solutions to tackle the deleterious effects of environmental degradation on livelihoods. International environmental law requires that states refrain from transboundary harm; human rights law expects states to respect human rights beyond their own borders, as well. Under the climate change regime, states have common but differentiated responsibilities to implement their international commitments, including the duty to limit adverse climate change effects; under human rights law, states should act according to their available resources to realize individuals’ rights, and they should hold accountable those most responsible for human rights violations.

In spite of these commonalities, however, bold measures to effectively coordinate the climate change and human rights agendas are growing in isolation from one another. In the climate change regime, a concrete rights-based approach is mostly absent from programs that deal with the impact of climate change and related measures on food security. Likewise, human rights institutions have been slow in recognizing the many direct and indirect impacts climate change has on human rights. They have not yet adapted the tools at their disposal to better anticipate and remedy these impacts.

In search of potential bridges to mutually reinforce both agendas, this report first scrutinizes climate change policies and actions, with the aim of identifying the problems and remedies required in dealing with right to food issues. The report then turns to examine human rights mechanisms, and discusses both their current ability to address climate change harms, as well as ways these mechanisms could be improved in light of the challenge of adapting to and mitigating climate change.

The Climate Change Regime and the Right to Food

Chapter 2 of this report analyzes the major commitments, mechanisms, and policies established under the two main climate change agreements to date: the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. It focuses on three aspects that are essential for the right to food. Firstly, it assesses whether the collection and analysis of information about climate change and related policies adequately addresses potential impacts on
food security and vulnerability. Secondly, it assesses the efficacy of mitigation measures, that is, policies and actions taken to reduce factors contributing to global warming (reduction of greenhouse gas emissions, preservation of forests as carbon sinks, etc.). Such policies are needed to avoid future climate change harm and to ensure sustainable food security. Yet, they can also pose challenges to realizing the right to food today, as they often require reallocating scarce resources that currently serve to produce food. Thirdly, chapter 2 looks into the efficacy of adaptation measures, that is, measures taken to cope with and build resilience against unavoidable changes. More specifically, it analyzes whether initiatives have been taken to adapt ways of producing and distributing food in light of changing climate conditions.

Information

To anticipate right to food violations, research should focus on how climate change will affect the availability, accessibility, adequacy, and sustainability of food supplies and how climate change policies impact food security – for better or for worse. Currently, key sources of such information include the Intergovernmental Panel on Climate Change (IPCC), which summarizes scientific research output on climate change, and National Communications from UNFCCC member states. Both of these sources examine climate change causes and impacts, as well as mitigation and adaptation measures.

For example, the IPCC used its 2007 report to illustrate the growing awareness of the impacts of climate change on food security by incorporating a chapter on “Food, Fibre and Forests.” While this is a welcome addition to climate change reporting, currently available scientific data still leaves a number of gaps regarding climate change impacts on food security. Often, the available information covers only those regions that have the funding to carry out such research, creating an important and noticeable gap between knowledge about impacts in developed and in developing countries. This is exacerbated by the fact that much local knowledge of marginalized communities in developing countries may not make it into reports. As a result, regions that may already have very limited financial means to use to adapt to the adverse impacts of climate change are further handicapped by the lack of information available regarding local impacts. Ideally, the IPCC would collaborate with institutions such as the Food and Agriculture Organization of the United Nations (FAO) to adapt existing food security assessment tools in order to better capture links between climate change and new instances of food insecurity.

Similarly, through so-called National Communications, states self-report on compliance with their commitments under the UNFCCC and – if ratified – those under the Kyoto Protocol. Those commitments differ for developed (or, in UNFCCC terminology, “Annex I”) countries and developing countries, and reporting obligations vary along with those differences. Annex I countries, which have historically contributed most to global warming, have stricter duties to...
combat climate change and compensate for its adverse effects. Reports of Annex I countries therefore focus on mitigation measures. If these countries fail to accurately present this type of information, they are penalized under the Kyoto Protocol. Beyond reporting on emissions and mitigation measures however, reporting obligations become less precise and less stringent. Guidelines for reporting on climate change impacts for instance, and on measures taken to adapt to such impacts, are relatively vague. As a consequence, Annex I countries are not particularly encouraged to thoroughly assess how climate change affects food security on their territory and how they prevent right to food violations, even though domestic and regional programs sometimes fill that gap.

In comparison, Non-Annex I countries are asked to report more explicitly on adverse impacts on climate change, including on food security. Little guidance is given as to how such food vulnerability assessment should be carried out, however. This gap could be addressed by using human rights assessment tools in the climate change framework. These tools require investigation into who is particularly affected, how local communities are informed on climate change issues, and whether they have an opportunity to participate in policy-making to build resilience. Similar questions should be asked with regard to the local impacts of mitigation policies – a topic that is insufficiently covered at present.

Mitigation

Absent drastic measures to lessen greenhouse gas emissions, climate change risks and harms will continue to increase and will affect people across the globe in many unpredictable ways. Perhaps unsurprisingly because of these widespread effects, mitigation is the area where states have made the most progress in adopting climate change policies. While current commitments under the Kyoto Protocol are still largely insufficient to prevent “dangerous climate change” (+2°C from pre-industrial levels), incentives to reduce emissions are bolder than for other areas of climate change policy.

In the current regime, states have much discretion as to how they reach the technical emission commitments they have agreed to. They can participate in “flexible mechanisms” to reach their emission quotas, for example, through programs such as trading emission credits under so-called cap-and-trade systems and through the Clean Development Mechanism (CDM), which encourages industrialized states to invest in sustainable emission-reduction projects in developing countries. Problematically, however, where discretion enters into climate change policy, the views of the most vulnerable groups tend to be ignored. The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD), for instance, encourages developed countries and their companies to make investments in forest preservation of developing countries, but has few mechanisms that allow the views of local populations relying on these forests for their livelihood to be adequately taken into account. Equally problematic are
the potential food security threats resulting from investments in new forms of energy such as clean coal and agrofuels – although the environmental balance of agrofuels production is by no means clear, and sometimes has been shown to be clearly negative. They indeed rely on precious resources (farmland, water) that could otherwise be used for agricultural purposes. Likewise, CDM projects can be approved without rigorous impact assessment as to their potential disparate effects on local populations. Consequently, states or companies may receive credits and encouragement for projects that generate sustainable emissions but that also have a disastrous effect on the food supplies of local communities.

Absent any explicit duty in the climate change framework to directly consider the adverse effects of mitigation measures on human rights such as the right to food, these measures may exacerbate tensions between the long-term goal of combating climate change and the short-term impacts on the most vulnerable populations. Actors initiating mitigation projects should carry out preliminary impact assessments and post-implementation evaluations to ensure that they do not negatively affect enjoyment of human rights.

Adaptation

To some extent, climate change is unavoidable: even in the impossible scenario where all greenhouse gas emissions cease immediately, the climate would keep changing due to lingering pollution and emissions. Consequently, the need to anticipate future climate change harm is pressing.

The importance of adaptation policies has for a long time been underestimated, but they are now becoming a more prominent focus in climate change talks. One of the most concrete initiatives is the National Adaptation Programs of Action (NAPAs), which help Least Developed Countries (LDCs) to identify the most urgent needs in terms of adaptation to climate change.

While initiatives like these are much needed, more coordination between new adaptation programs and existing strategies for the realization of the right to food would be useful. Here again, through joint efforts of human rights institutions, the FAO and the UNFCCC, existing human rights tools can be adapted and used to identify the most pressing threats to food security resulting from climate change and related policies. Moreover, additional consideration is needed to tackle remaining technological, social, and financial barriers hindering adaptation plans. In particular, the transfer of adaptation technology is one aspect of international cooperation that should be bolstered in future talks.

In terms of funds available to promote and create new adaptation measures, the Adaptation Fund is an important step in the right direction: it was established to benefit vulnerable developing countries disproportionately affected by climate change. However, discussions about eligibility have focused on the national level; no guarantee exists that resources will benefit those who are most vulnerable within a given state. Even more importantly, current funding is insufficient to adequately meet the needs of populations most at risk.
Enforcement

Many of the principles and commitments of the UNFCCC are promising. The objective of the regime is to avoid dangerous anthropogenic interference, and states have committed to mitigating and adapting to climate change, to international cooperation to help vulnerable countries build resilience against adverse impacts, and to raise awareness and provide training and education about climate change. However, many of the most promising provisions are vague, and the UNFCCC generally lacks strong enforcement mechanisms (whether through an independent body or through other incentives) to compel states to comply with their commitments. From a rights perspective, this is particularly problematic, not only because many of the obligations would be beneficial for the promotion and protection of human rights if duly implemented, but also because a lack of enforcement mechanisms prevents from holding accountable those who clearly violate their duty to address climate change issues.

The Kyoto Protocol addressed the lack of enforcement through the creation of a Compliance Committee. The Committee does not fill the entire enforcement gap however, since it focuses mainly on compelling Annex I countries to comply with their mitigation commitments. Hence, beyond verifying whether states respect their emission caps, the UNFCCC has little power to enforce current state commitments, let alone provide climate change victims with redress for the harm they endure. Consequently, some particularly affected states or groups have turned to other institutions outside the climate change framework to seek redress for climate change harm. There, however, they have encountered another obstacle: the lack of understanding or willingness of other institutions to recognize climate change as an issue that affects human well-being. This issue is addressed in the next section of the report.

The Human Rights Regime and Climate Change

While the climate change framework has failed to adopt a rights-based approach in several key areas of its work, human rights institutions have also failed to deploy some relevant tools at their disposal to adequately flag the links between climate change and human rights.

There are three areas where human rights institutions and other bodies such as the FAO could take more proactive measures:

- They could raise awareness about the impacts of climate change on human rights, including by clarifying existing human rights obligations of states confronted with climate change challenges.
- They could use human rights tools such as monitoring guidelines, indicators, and benchmarks to more accurately assess vulnerability to climate change effects and evaluate climate change policies, if necessary adapting these tools.
They could use the enforcement mechanisms of the human rights framework to hold accountable those most responsible for climate change harm.

Raising Awareness and Clarifying State Obligations

Human rights institutions have only recently started considering climate change as a human rights issue rather than a merely environmental problem. The Human Rights Council has passed a few resolutions on the topic and asked the High Commissioner for Human Rights to draft an analytical report on climate change and human rights. While the High Commissioner’s study was useful in mapping the impacts of climate change on human rights, it provided little guidance for states to simultaneously address human rights and climate change concerns. Aside from a panel discussion, which took place in June 2009, there is little follow-up currently under way.

More could be done. As the UN Human Rights Council has done in the past when faced with global crises – and in light of the upcoming climate change negotiations in Copenhagen in December 2009 – the Council could hold a thematic Special Session on Climate Change in the near future. Given the persistent, overarching threat climate change poses, the Council could appoint a Special Rapporteur who would have a mandate to study the issue more thoroughly, look into best and worst practices, present his or her research and findings during international climate change negotiations, and foster a better understanding of the manifold issues arising from global warming.

Oftentimes, international bodies such as the Human Rights Council have placed emerging issues on their agendas in response to substantial advocacy efforts of NGOs. In the case of climate change, however, human rights groups – with a few noteworthy exceptions – have lagged in pressing governmental institutions to consider the wide range of human rights implications arising from the climate change policies they adopt. Civil society could do more to encourage not only formal human rights institutions but also domestic and international climate change bodies to identify and address the human side of climate change more adeptly.

A more direct tool for raising awareness would be to clarify current human rights obligations that states must respect when confronted with climate change issues. None of the bodies that have a mandate to provide guidance in that regard have dealt with climate change yet. Treaty bodies such as the Committee on Economic, Social and Cultural Rights, or the Advisory Committee of the Human Rights Council, can currently provide authoritative comments and practical assistance to more accurately deal with these issues.

Adapting and Using Human Rights Tools

Human rights experts have developed qualitative and quantitative tools to analyze the causes of human rights violations and measure progress in realizing
certain rights. These tools are often used in the context of human rights reporting: they allow for systematic evaluation and redress of factors that have a recurrent impact on human rights and for comparable data over time and across countries. Some of these tools consist of questionnaires that states answer when they report on the overall human rights context in their country, including for intergovernmental human rights discussions under the Council’s Universal Periodic Review (UPR) or complying with reporting obligations under specific treaties they have ratified. So far, these guidelines are generally silent on the issue of climate change being a relevant factor worth reporting on. Even when states have chosen to report on climate change and the challenges they have faced, the ensuing dialogue has been disappointing. Guidelines for UPR and treaty-specific reporting could be amended to ensure that the issue is systematically addressed, and states should put more effort in engaging in constructive dialogue that prioritizes practical solutions. For the right to food specifically, the FAO has already indicated which types of questions states should be asked to assess when faced with climate change; these could be incorporated in the work of human rights institutions and mainstreamed for other rights that are particularly at risk.

Other tools are specifically designed to detect food insecurity, relying on statistical data and precise indicators. Among these are the FAO’s Food Insecurity and Vulnerability Information and Mapping Systems (FIVIMS), which already integrate environmental factors in their food security analysis. However, the data FIVIMS use are static rather than dynamic – and may therefore be inadequate to address climate change. Also, FIVIMS are generally silent about international causes of food vulnerability, which is problematic given the transboundary nature of climate change. The FAO could collaborate with the UNFCCC Secretariat to redesign this food security assessment tool to better capture climate change threats by including an explicit analysis of vulnerabilities to climate change.

While FIVIMS only address food insecurity, other tools such as the IBSA Procedure (Indicators, Benchmarks, Scoping, Assessment) deal more comprehensively with the realization of the right to food. This means that they not only look at the outcome – whether food is available, accessible, and adequate across a country or region – but also at whether there are adequate policies in place to realize the right to food, based on the benchmarks states set for themselves following a dialogue with the Committee. Such policies should be based on interaction with those most directly concerned through information-sharing and participation of local communities in the decision-making process. Climate change could be better integrated within the IBSA Procedure in the future. However, even with the IBSA Procedure as currently road-tested by the Committee on Economic, Social and Cultural Rights, a general assessment of the local influence of climate change is presently lacking.
Finally, human rights bodies (human rights treaty bodies and regional human rights institutions at the international level, and courts or other independent institutions at the domestic level) could take bolder measures to hold accountable those who contribute most to climate change and the resulting human rights violations. In order to effectively carry out that function, however, these monitoring bodies must first overcome several perceived and real challenges, even once the obligations imposed on both states (at the international level) and private actors (through national regulations) are defined with sufficient clarity.

First, those whose human rights are affected by climate change are likely to be numerous, diverse, and diffuse. They are sometimes particularly vulnerable, making it difficult for them to mobilize. To overcome this, the example set by judicial systems with broad standing clauses should be followed by allowing for class actions or even public interest litigation. Additionally, a comprehensive understanding of who qualifies as victims would help identify those most in need of redress and policy change.

Second, perpetrators are also likely to be disparate and plentiful, making it difficult to single out individual responsibility and to establish causal links between particular human rights violations and the actions that feed into them. A first, rather strategic solution could be to challenge those actions that not only contribute to climate change globally but also to environmental degradation at the local level. Such actions include excessive pollution or mass-scale deforestation practices. A second strategy could be to examine groups that are particularly polluting – such as the fossil fuel sector or developed industrial states that disproportionately contribute to climate change – and sue them as an aggregated entity. Finally, it should be realized that state liability could arise not just because of the state’s direct interference with human rights, but also when it fails to protect or fulfill those rights. States should be held accountable when they fail to adequately control private actors or when they encourage mitigation practices that have adverse impacts on local communities.

**Conclusion**

This report highlights (1) how climate change and relevant mitigation and adaptation plans may interfere with the realization of the right to food; (2) how the climate change regime can do more to adequately address the human rights harms resulting from climate change itself, and how it has not properly tailored adaptation and mitigation measures to be aligned with right to food obligations; and (3) how the tools existing within the human rights regime are currently either underutilized or underdeveloped to deal with the negative impacts of climate change on the right to food.

International law requires that related and relevant areas in the climate change and right to food debate be harmonized and integrated wherever
possible. So far, institutions on both sides have generally refrained from starting a mutual dialogue, in spite of overlapping principles and objectives to preserve human welfare. This dialogue is overdue and should be initiated immediately. It will benefit both the fight against climate change and the realization of human rights. States already are duty-bound to consider climate change-related impacts on human rights. International law already contains many of the necessary norms to ensure that climate change policies do not adversely affect human rights. The next step is to pursue integration of the preexisting frameworks by building awareness of the common goals and laying the groundwork for a harmonized effort on the part of both regimes. This report therefore proposes concrete methods for relevant institutions to address climate change problems and realize the right to food concurrently.