

Human Rights in the Climate Change Regime

Naomi Roht-Arriaza, Feb. 12, 2010

The human rights – climate change connection

- Climate change impacts human rights enjoyment
- Lack of human rights increases vulnerability to climate change
- The climate change regime in effect allocates rights to the atmosphere
- My focus: the current and proposed provisions of the cc regime themselves are affecting human rights and may be causing violations

Rights and the cc regime

- Failure to mitigate and adapt will fall most heavily on those least able to assert rights
- Choices of how to mitigate and adapt will affect livelihood, ESC rights, but also CP rights as people and governments react
- Choices will affect distribution of power and wealth – and therefore conflict potential

Human rights concerns in the cc regime

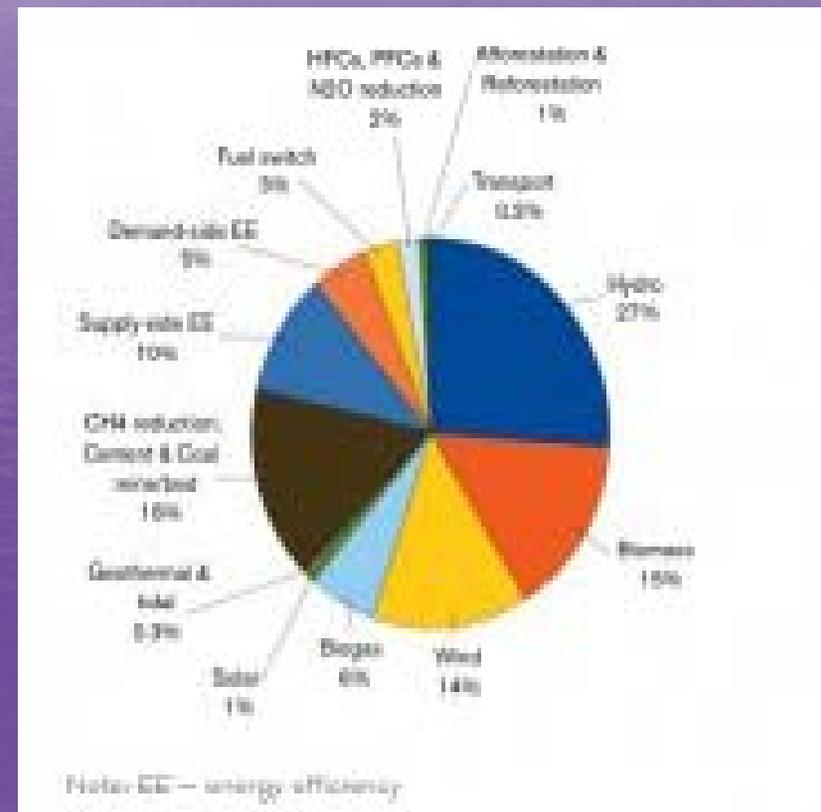
- “Flexibility” mechanisms, especially the Clean Development Mechanism
- Biofuels and land use
- REDD+, forests, and indigenous and local communities
- Alternative energy pathways
- Adaptation

The Clean Development Mechanism

- Art. 12 of Kyoto Protocol allows Annex I parties, or their private enterprises, to fund activities in non Annex-I countries that lead to emissions reductions, which can then be certified as Certified Emissions Reductions (CERs) and counted against the Annex I country's reduction requirements. Idea is to take emissions reductions at the cheapest point, create a low-carbon path for developing countries.

CDM Large Hydro Projects

- 1328 projects in pipeline
- 588 large dams
- 71% in China
- 12 million CERs issued
- Over a quarter of all CDM projects are hydro: only 15% are solar/wind



CDM Projects can cause rights violations



- Forced displacement
- Arbitrary arrests or killings of activists
- Loss of livelihood from river drying up
- Impacts on food, health

- Projects are supposed to:
 - Be “additional” – not business as usual
 - Meet sustainable development goals
 - Comply with EIAs under national law
 - Invite comments by local stakeholders
 - All the above verified by third-party verifiersBut there’s lots of abuse....

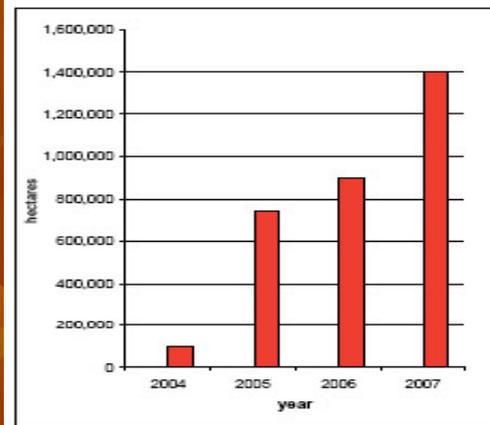
Biofuels and the right to food

- Biofuel use mandated in EU, US law
- Food crops used for fuel raises food prices
- Land conversion and concentration -> conflicts
- Loss of forests and peat bogs that support local people

- Deforestation in Kalimantan for palm oil plantation



Figure 4. Oil palm plantation expansion in Ketapang (2004-2007).



REDD+ and forest peoples

- Payment for forest preservation
- Either fund or offsets
- Advanced at Copenhagen, but not clear where the money comes from
- Concerns:
 - Rights of indigenous peoples to lands and resources
 - Property rights
 - Free, prior and informed consent
 - Plantations = forests?
 - Funding mechanism

REDD+ text as of 12/09

- ...2. *Further affirms* that when undertaking activities referred to in paragraph 3 below, the following safeguards should be [promoted] [and] [supported]:.....
- **(c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples;**
- **(d) Full and effective participation of relevant stakeholders, including in particular indigenous peoples and local communities** in actions referred to in paragraphs 3 and 5 below;
- (e) Actions that are consistent with the conservation of natural forests and biological diversity, ensuring that actions referred to in paragraph 3 below are not used for the conversion of natural forests, but are instead used to incentivize the protection and conservation of natural forests and their ecosystem services, and to enhance other social and environmental benefits;^[1] 1 [Taking into account the need for sustainable livelihoods of indigenous peoples and local communities and their interdependence on forests in most countries, reflected in the United Nations Declaration on the Rights of Indigenous Peoples and the International Mother Earth Day.]

Alternative energy pathways

- CDM could be used positively: fuel-efficient stoves improve womens' health – but only a small fraction of CDM funds used for these types of projects
- Changes in energy production could support energy independence and local control over resources or could increase dependence and costs for the poor

Adaptation

- Money pledged to help most vulnerable countries: sea rise, drought, floods, new diseases will all impact rights
- Forced removal/relocation risks
- Migration and internally-displaced
- Control over agricultural pathways: high-tech input vs. small scale sustainable ag



What to do? Options for building human rights into the cc regime

- Build human rights language into a new accord/Kyoto 2nd Commitment period
 - In REDD+
 - In “shared vision” text
 - In flexibility mechanisms language
 - As part of “economic and social consequences of response measures” text
 - Example of trade-related language

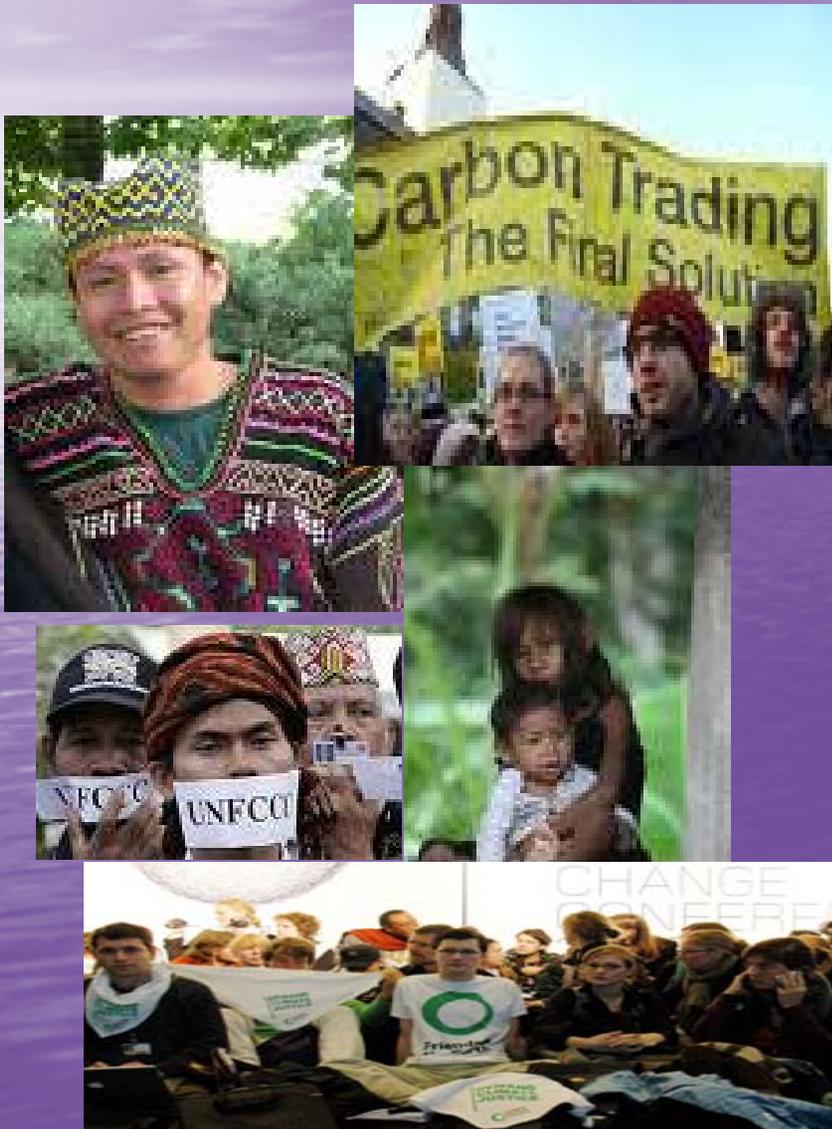
Private standard-setting to verify human rights compliance

- Could add stronger human rights protection, participation language to verification process for CDM
- Could require outside verifiers not hired by either project proponent or host gov't
- CCBA REDD+ Standards as example

Expert Review Mechanism

- UC Berkeley: need a Process to clarify principles, facilitate info sharing, provide technical assistance to states and within the UNFCCC framework
- Modeled on SBSTA: established in August 1995 to provide the COP and, as appropriate, other subsidiary bodies with info and advice on scientific and technological matters relating to the Convention.
- A human rights/social impacts body could be made up of experts, decide re standards and raise human rights issues to the full COP/MOP.

Conclusions



- A human rights lens can help the emerging climate regime “do no harm”
- A rights-based approach is common in development work, but still missing from climate talks
- Swift action on real reductions in emissions is, after all, the best human rights policy.