

Joint Written Statement

44th Session of the UN Human Rights Council

Agenda Item 4: Human Rights situations that require the Council's attention

Title: Impact of Covid-19 on Environment and Climate Change

Submitted by Franciscans International (General ECOSOC Status) and co-sponsored by Amnesty International, the Center for International Environmental Law (CIEL), Earthjustice, and the Global Initiative for Economic, Social and Cultural Rights

Background

The Covid-19 pandemic has been an unprecedented global crisis.¹ At its core, the pandemic is a public health crisis. However, its consequences are far-reaching and have expanded into a social, economic, cultural, political - and thus human rights crisis.² Covid-19 has highlighted structural inequalities and injustices by putting groups and individuals who were already in situations of vulnerability, including people living in poverty, low-wage workers, indigenous peoples, women, minorities, migrants and refugees, into even more precarious situations.

Impacts of Covid-19 on the push back of environment laws and standards

Covid-19 has revealed the world's vulnerabilities, many of which intersect with and exacerbates the on-going environment and climate crisis.

Civil society organizations working in the areas of climate change, environment, and human rights are very concerned about the harmful actions and omissions of States during the pandemic and recovery processes. These concerns are shared, among others, by the UN Special Rapporteur on human rights and the environment who deplored that, instead of stepping up their environmental and climate actions, "a number of governments announced that they are lowering environmental standards, suspending environmental monitoring requirements, reducing environmental enforcement, and restricting public participation."³

Some examples of the different ways in which COVID-19 has impacted the protection of the environment and climate actions are provided hereafter.

Lowering of standards and of controls

The United States of America, through its Environmental Protection Agency (EPA) adopted in April 2020 a new regulation that would allow the agency to significantly discount the benefits of curbing air pollutants. The EPA used its new rule to weaken mercury pollution standards and paves the way to weaken other air pollution standards.⁴

¹ The outbreak was declared a Public Health Emergency of International Concern on 30 January 2020 by the World Health Organization (WHO). As 3 June 2020, WHO reported Covid-19 cases in 216 countries, areas and territories, with more than 6.2 million affected people, and over 370'000 Covid-related deaths.

² See the Speech of the UN Secretary General

https://www.ohchr.org/EN/NewsEvents/Pages/UNSG_HumanRights_COVID19.aspx

³ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25794&LangID=E>

⁴ See <https://www.nytimes.com/2020/04/16/climate/epa-mercury-coal.html>

The pandemic has also prevented some governments from adequately enforcing environmental laws, including conducting monitoring and inspections. For example, during the lockdown in Tunisia, around 200 Oak Trees of the forest in the Aïn Sallam area, Jendouba, were cut down in just two days, between 4 and 6 April 2020.⁵ As of early May 2020, the forestry agency has had to file 200 legal cases for violations against the forest code including illicit logging, unauthorized construction, and hunting in forest areas.⁶ Allegations were made that the logging activities might have occurred with the complicity of forest guards or local government officials⁷ sometimes in exchange for bribes, a clear illustration that some have tried to profit from the forced oversight reduction. The wood is expected to be turned into charcoal. The Tunisian authority has taken steps to address this issue.⁸

Energy

Governments are also using the pandemic to rollback progress on renewable energy. In contrast to its promotion of green and sustainable energy to address the urgency of the climate crisis, the Government of Mexico took control of the country's electricity market on 16 May 2020, arguing that the Covid-19 health emergency requires new guidelines to ensure power supplies.⁹ The government's recent rule, which delays the connection of newly built renewable energy projects to the grid, could threaten the transition towards sustainable and human rights-consistent energy.¹⁰ This is perceived as an effort to prioritize state-owned electricity and oil companies over tackling climate change.¹¹

Mining

Mining activities are often linked to environmental degradation, air and water pollution, and therefore require to be strictly controlled. During this pandemic period, while lockdowns forced oversight activities to decrease and local communities were unable to advocate against the harmful effects of mining operations, several countries declared mining activities "essential".

In Venezuela, on 8 April 2020, the government took a decision promoting mining in environmentally fragile and vital Amazon regions.¹² Testimonies from civil society actors also seem to indicate that in Brazil, in the context of a decrease in commodity prices for minerals, mining companies kept production levels up. This occurred in particular at isolated

⁵ See <https://lapresse.tn/59375/foret-de-chenes-de-ain-sallam-a-qui-profite-le-vandalisme/>

⁶ See <https://news.trust.org/item/20200501041915-qph07/>

⁷ See <https://reporterre.net/Arbres-coupes-par-centaine-Apres-le-confinement-la-gueule-de-bois-des-forets-tunisiennes>

⁸ See <https://fr.allafrica.com/stories/202004220855.html>

⁹ See <https://www.ft.com/content/da6e5abd-b1b5-497f-9fff-f7c131c81b27>

¹⁰ See <https://www.wsj.com/amp/articles/mexican-government-moves-to-tighten-grip-on-electricity-market-11589752754>

¹¹ See <https://mexiconewsdaily.com/news/nobel-prize-winner-urges-use-of-renewable-energy-over-fossil-fuels/>

¹² See <https://kape-kape.org/2020/04/22/gobierno-legaliza-y-promueve-la-mineria-en-zonas-fluviales-vitales-para-la-amazonia/>

mines with little infrastructure and services, far from the oversight of environmental authorities.¹³ Notwithstanding its decree characterizing environmental protection as an “essential service” during the pandemic, the government of Brazil is effectively suspending the enforcement of environmental laws while environmental authorities have less capacity to enforce environmental protections.¹⁴ These step backs follow on from a year during which the Brazilian administration cut funding to and undermined environmental and indigenous protection agencies.¹⁵ In addition, environmental agencies have been reporting an increase in illegal mining activities worldwide, as a result of lockdowns.¹⁶

Impact of Covid-19 on Air Quality and Climate Change

In the last decade, the UN Framework Convention on Climate Change (UNFCCC) has seen most of its Member States fail to implement drastic reductions of their emissions. In its latest 2020 ‘Report of The Global Climate in 2015 - 2019’, the World Meteorological Organization found a continued increase in carbon dioxide (CO₂) emissions and an accelerated increase in atmospheric CO₂ concentration with growth rates 20% higher than for the previous five-year assessment period.¹⁷

During COVID-19 related lockdowns, global economic activities have slowed down in an unprecedented way. Satellite images show the unusual improvement of air quality in many big cities and industrial areas worldwide, which includes greenhouse gas emissions, as underlined by WHO¹⁸. Although we hope this may encourage continued actions towards reducing air pollution, it is unlikely to have any significant impact on the general trend of global warming.

Traditionally, air pollution increases exponentially following economic crises.¹⁹ New data shows that air pollution has bounced back to pre-lockdown levels in China, suggesting that some industries have increased production to make up for lost time.²⁰

Several States have recently used Covid-19 as an excuse to limit their efforts to curb carbon emissions. Poland, one of the main coal producers in Europe, asked the European Union (EU) to be exempt from the EU Emissions Trading System, a key element of the EU’s efforts

¹³ Information received during the Webinar organized by Peoples’ Dialogue on 22 April 2020 on *Covid-19 in the Age of Extractivism and Climate Change – Voices from the South*. See also Brazilian Environment Minister Ricardo Salles’ statements on environmental regulations in the context of Covid-19:

<https://www.reuters.com/article/us-brazil-politics-environment/brazil-minister-calls-for-environmental-deregulation-while-public-distracted-by-covid-idUSKBN22Y30Y> <https://noticias.uol.com.br/colunas/jamil-chade/2020/05/25/pandemia-nao-e-cortina-de-fumaca-para-desmatamento-denuncia-relator-da-onu.htm>

¹⁴ See <https://www.amnesty.org/en/latest/news/2020/04/land-seizures-and-covid-19-the-twin-threats-to-brazils-indigenous-peoples/>

¹⁵ See <https://www.amnesty.org/en/documents/amr19/1401/2019/en/>

¹⁶ <https://www.bbc.com/future/article/20200518-why-lockdown-is-harming-the-amazon-rainforest>

¹⁷ See library.wmo.int/doc_num.php

¹⁸ <http://origin.who.int/airpollution/en/>

¹⁹ During the 2007 - 2008 economic crisis, air pollution dropped by 1.4% worldwide, but went up to 5.9% in 2010 as the economy was recovering. See

https://www.globalcarbonproject.org/global/pdf/pep/Peters_2011_Budget2010.pdf

²⁰ See <https://www.telegraph.co.uk/news/2020/03/31/china-air-pollution-bouncing-back-shutdown-eases/>

to combat global warming, in order to use the funds to address the health crisis.²¹ The Czech Republic has also used this period to ask the EU to abandon its Green Deal, which aims for its members to achieve net zero greenhouse emissions by 2050, to concentrate on its Covid-19 response.²²

The multilateral climate negotiations scheduled in 2020 have also been impacted by the Covid-19 pandemic. The postponement of the 26th Conference of Parties (COP) of the UNFCCC, to 2021 threatens to weaken the momentum towards higher climate ambition in this critical year for the implementation of the Paris Agreement.²³

Establishment of A Special Procedure Mandate on Human Rights and Climate Change

During COP25, the then President of the Marshall Islands, H.E. Hilda Heine, on behalf of the Climate Vulnerable Forum (CVF), made an encouraging statement, “calling for the creation of a dedicated Special Rapporteur on climate change,” under the UN Human Rights Council’s Special Procedures.

Since 2009, the Human Rights Council has been addressing the adverse impacts of climate change on human rights, in particular through the adoption of several resolutions, studies, reports, panel discussions, and through the reports of its Special Procedures mechanisms.

However, given the unprecedented threat that the climate crisis poses to human rights and the urgency of the situation, we believe that a dedicated Special Procedure Mandate on Climate Change and Human Rights is necessary and coherent with the Paris Agreement, especially in affirming that States have the obligation to respect and promote human rights in addressing climate change.²⁴ Such mandate would elevate the nexus of climate change and human rights in the work of the Council and help States to address the resulting challenges.

Through this new Special Rapporteur, the Council will be able to: take stock of the impacts of climate change on human rights, which should entail conducting country visits, receiving communications and organizing consultations with affected communities; promote policy coherence between climate actions and international human rights obligations; and mainstream a human rights-based approach in all climate change-related actions and policies. The Rapporteur could also serve as a focal point for dialogue on human rights and

²¹ See <https://www.reuters.com/article/us-health-coronavirus-poland-ets/eu-should-scrap-emissions-trading-scheme-polish-official-says-idUSKBN2141RC>

²² See <https://www.euractiv.com/section/energy-environment/news/czech-pm-urges-eu-to-ditch-green-deal-amid-virus/>

²³ COP25 in Madrid failed to agree on several key points for the implementation of Paris Agreement, including on the issue of so-called “carbon trading”. During this year’s COP26, States were expected to review and renew their Nationally Determined Contributions (NDCs) with their commitment to curb the global emissions. The previous NDCs submitted in 2015 having proved to be insufficient, States should boost their ambitions rather than delay them.

²⁴ See preambular paragraph of Paris Agreement, “Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity.”

climate change between governments, civil society, international financial institutions, Treaty Bodies, other Special Procedures, and the UNFCCC.

The establishment of this mandate will enable this new Special Rapporteur to build on the work of other special procedures and to expand the consideration of linkages between human rights and climate change, including but not limited to the environmental dimensions of these linkages.

This will also enable the Special Rapporteur on human rights and the environment to increase its engagement on other urgent and interlinked environmental issues, such as biodiversity and human rights. A new mandate on climate change would not undermine the important work of other mandate holders but rather reinforce their work as climate change is a cross-cutting human rights issue.

The Pandemic confirms the need to recognize the Right to a Safe, Clean, Healthy and Sustainable Environment

The UN High Commissioner for Human Rights and the UN Special Rapporteur on human rights and the environment both stressed the link between infectious diseases, including Covid-19, and environmental degradation. Seventy-five percent of all emerging infectious diseases are zoonotic viruses, originating from animals and transferring to humans.²⁵ Such transfers are more common when habitat destruction causes animals and humans to come into contact more often. Deforestation, industrial agriculture, illegal wildlife trade, and climate change can therefore increase the risk of pandemics, from which major human rights violations may result²⁶. Environmental degradation also exacerbates the effects of Covid-19. For example, people with Covid-19 who live in an area with high air pollution are more likely to die from the disease.²⁷ This clearly shows that the health of all people and of the planet are intrinsically connected.

People are dependent on the environment not least for their livelihood, food and health. When the environment deteriorates, loses its biodiversity and its capacity to renew, this impacts the wellbeing of people, potentially pushing them more into poverty.²⁸

The right to a safe, clean, healthy and sustainable environment has been constitutionally recognized by 110 States.²⁹ This recognition at the domestic level is essential but given the global nature of environmental degradation, including due to transboundary pollution, an international recognition and a global implementation and enforcement of this right is vital. The current pandemic has reinforced the urgency for the Human Rights Council to adopt a resolution towards the international recognition of the right to a safe, clean, healthy and

²⁵ See Statement of UNEP <https://www.unenvironment.org/news-and-stories/statement/unep-statement-covid-19>

²⁶ See the statement of the UN Special Rapporteur on human rights and the environment <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25794&LangID=E>

²⁷ See <https://www.hsph.harvard.edu/news/hsph-in-the-news/air-pollution-linked-with-higher-covid-19-death-rates/>

²⁸ See <https://www.scidev.net/sub-saharan-africa/biodiversity/news/climate-change-to-accelerate-biodiversity-loss.html?>

²⁹ See the A/HRC/43/53 para 10.

sustainable environment. It is an important step, not only for environmental protection, but also to ensure the realization of human rights for all now and in the future.