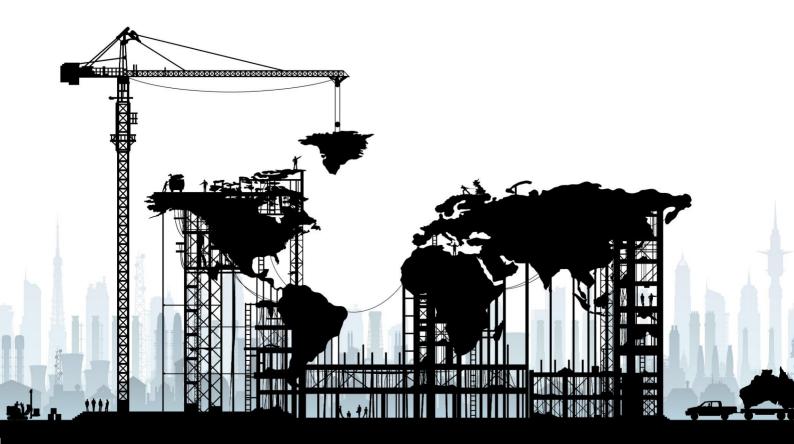᠐UCL

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Climate Change and
Human Rights: Agenda-
Setting Against the Odds

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Abstract

Human rights were absent from climate negotiations until recently. This paper uses Multi Streams Analysis to consider how small countries and NGOs succeeded in shaping this agenda against the odds, ultimately inserting human rights language in the Paris Agreement. This paper showcases the potential of moral leadership in international negotiations when combined with strategic entrepreneurial leadership, persistence and leveraging coalition breadth. Theoretically, the paper makes the case for applying Multi Streams Analysis to UN policy-making, given the current lacuna.

Introduction[1]

Climate change is the greatest human rights threat in the 21st century (Robinson,2014). Nevertheless, human rights were absent from climate negotiations until recently. This paper analyses how small countries and NGOs succeeded in shaping this agenda against the odds. Effective moral and entrepreneurial leadership by key entrepreneurs, persistent investment in "softening-up", as well as building a broad coalition were crucial. Using Kingdon's Multi Streams Analysis (MSA), I examine the actions that underpin the successful climate change and human rights (CCHR) agenda-setting. I argue, that CCHR is a problem-without-a-passport suited to MSA, and I contribute to filling the current lacuna of MSAs on climate change and UN policy-making. Existing CCHR literature focuses on the importance of CCHR, but this is the first study to consider how entrepreneurs set this agenda. Primary research and interviews were, thus, necessary. Given my focus, consideration of other frameworks, such as Punctuated Equilibrium Theory, is out of the scope of this inquiry. In line with some MSAs (Jones et al,2016), I focus on groups rather than individuals, notwithstanding that ultimately individuals lead these groups.

Multi Stream Analysis

Multi Stream Analysis (MSA) facilitates understanding of policy processes at the system-level by analysing contexts of agenda-setting, and is based on universal concepts including ambiguity and contingency (Jones et al,2016,p14). MSA recognises, that because time and attention are scarce, process and agency are 'keys to unlocking the agenda puzzle' (Cairney/Zahariadis,2016,p20). Policy entrepreneurs influence the process by coupling problems to solutions at opportune moments (Kingdon,1984). Kingdon (ibid) develops MSA for the domestic US policy context, characterised by complex processes and actor networks. This suggests that application to complex international climate negotiations could be fruitful; MSA works well in contexts 'where power is spread across venues' and policy processes are 'messy and unpredictable' (Cairney/Zahariadis2016,p8). In their meta-review (using data from 2000-2013), Jones et al (2016) showcase the proliferation of MSA as a powerful analytical tool. My analysis of the meta-review data shows that almost half of the 40 international MSAs focus on the EU, whilst there are only two MSAs on the UN. MSA has not previously been applied to United Nations Framework Convention on Climate Change (UNFCCC) or CCHR. Yet, I agree with Lipson's (2007) strong case for MSA of UN policy-making. I apply MSA in recognition of Weible et al's (2016) argument that MSA is most effective when all streams – problem, policy, and political – are analysed. In line with Lipson (2007), I utilise Kingdon's characterisation of problem and policy streams, but adopt the political stream to consider domestic, inter-state and UN politics.
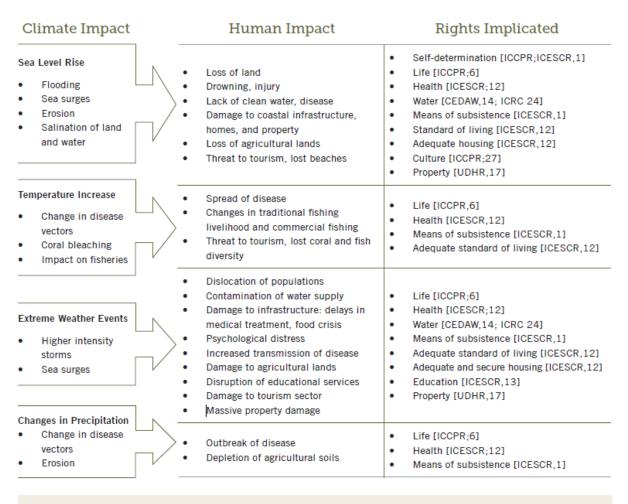

Climate Change and Human Rights: Problem-without-a-Passport par Excellence

The scientific consensus is clear that the impact of climate change will be 'severe, pervasive and irreversible' (IPCC,2014), and World Health Organisation (2014) research estimates that 250,000 people will die from climate change annually by 2030. The atmosphere does not respect political boundaries (Atapattu,2016b). Recognising this complexity, the UN Human Rights Council (UNHRC) (2016) emphasises that climate change is a paradigmatic example of what Annan (2009) calls problems-without-a-passport – impossible to address effectively without coordinated action and with the potential to undermine many of humanity's advancements.

Climate change is traditionally a scientific problem and the international community has been slow to recognise its human impact (Atapattu,2016a). Yet the human impact is profound, as the diagram below illustrates emphatically, connecting the impact of climate change to the human rights threatened as a result.

Figure I: Illustrating the human impact and human rights implicated as a result of climate change (Maldives Ministry of Foreign Affairs in CIEL/CARE,2015)

Climate Impact	Human Impact	Rights Implicated
Sea Level Rise • Flooding • Sea surges • Erosion • Salination of land and water	• Loss of land • Drowning, injury • Lack of clean water, disease • Damage to coastal infrastructure, homes, and property • Loss of agricultural lands • Threat to tourism, lost beaches	• Self-determination [ICCPR;ICESCR,1] • Life [ICCPR;6] • Health [ICESCR;12] • Water [CEDAW,14; ICRC 24] • Means of subsistence [ICESCR,1] • Standard of living [ICESCR,12] • Adequate housing [ICESCR,12] • Culture [ICCPR;27] • Property [UDHR,17]
Temperature Increase • Change in disease vectors • Coral bleaching • Impact on fisheries	• Spread of disease • Changes in traditional fishing livelihood and commercial fishing • Threat to tourism, lost coral and fish diversity	• Life [ICCPR,6] • Health [ICESCR,12] • Means of subsistence [ICESCR,1] • Adequate standard of living [ICESCR,12]
Extreme Weather Events • Higher intensity storms • Sea surges	• Dislocation of populations • Contamination of water supply • Damage to infrastructure: delays in medical treatment, food crisis • Psychological distress • Increased transmission of disease • Damage to agricultural lands • Disruption of educational services • Damage to tourism sector • Massive property damage	• Life [ICCPR;6] • Health [ICESCR;12] • Water [CEDAW,14; ICRC 24] • Means of subsistence [ICESCR,1] • Adequate standard of living [ICESCR,12] • Adequate and secure housing [ICESCR,12] • Education [ICESCR,13] • Property [UDHR,17]
Changes in Precipitation • Change in disease vectors • Erosion	• Outbreak of disease • Depletion of agricultural soils	• Life [ICCPR;6] • Health [ICESCR;12] • Means of subsistence [ICESCR,1]

Source: Submission by the Maldives to the OHCHR in September 2008, as part of OHCHR's consultative study on the relationship between climate change and human rights

The human rights threat of climate change is already omnipresent. For example, the Maldives are likely to disappear this century and, in 2013, the Philippines were hit by the strongest storm in recorded history killings thousands and devastating the livelihoods of hundreds of thousands (Vidal,2013). A case before the Philippines Commission on Human Rights illustrates the policy challenge. Civil society actors accuse international "carbon majors" of violating Filipinos' human rights through the environmental consequences of their emissions, showcasing the dilemma of local impacts of global emissions (Greenpeace,2016). The injustice of climate change becomes clear: the most vulnerable, who have contributed least, will suffer most (Robinson,2014). Human rights can enhance the debate and policy decisions on climate change. Human rights highlight the urgency of climate action, facilitate better policy-making, and connect climate change to domestic compliance (UNHRC,2016, Knox interview).

Problem Stream

The problem stream analyses how conditions are redefined as problems to capture decision-makers' attention (Kingdon,1984,p.20). CCHR policy entrepreneurs argue climate change violates fundamental values, thereby moving the goalposts of the debate form scientific to moral. This process of re-categorisation, or framing, is the crucial political strategy employed to humanise climate change (Keck/Sikkink1998, Joachim,2001). As the Maldives' Foreign Minister (Shahid,2008,p.18) explains: 'In order to increase the moral imperative to act, we thought it crucial to show the world the immediate and compelling human face of climate change.' Framing sometimes involves unusual action to draw attention, such as the world's first-ever underwater cabinet meeting in the Maldives (Goodman,2009). In the struggle against old norms, CCHR framing develops linkages with established ideas to leverage spill-over across issue areas (Wallbott,2014). Leveraging human rights, policy entrepreneurs illustrate the moral duty, as well as the legal obligation, for adequate climate action given existing commitments (Knox,2015). This linkage faced opposition, both principled and practical. UNFCCC heavyweights, including the US, argued against connecting climate change and human rights because of complexity and path dependency, due to concerns about compensation costs (Wallbott/Schapper,2015, Limon,2009). Practically, a key challenge for CCHR is the capacity of UNFCCC interlocutors to deal with CCHR, given predominant environmental expertise and the risk of siloed approaches among human rights advocates inadvertently creating false competition for agenda space (Pegram interview).

Kingdon (1984) highlights the power of numbers in the problem stream. Connecting climate change and human rights forces policymakers to consider the scale of the human impact. Aside from NGO contributions, the appointment of the UN independent expert John Knox led to the development of a broader factual base on CCHR, that proved invaluable in problematising CCHR. Numbers are also powerful symbols (Beland,2016). "1.5°C" became a major rallying ground at climate negotiations in Copenhagen and Paris signifying the difference between death and survival of small islands (Ewing,2009, also see Van Ypersele,2009, Lewis,2015). In summary, CCHR entrepreneurs humanise climate change and illustrate what is at stake, especially for vulnerable people, underscoring the moral imperative for ambitious action.

Policy Stream

In the policy stream, policy entrepreneurs compete to generate support for their solutions (Cairney/Zahariadis,2016). CCHR entrepreneurs' principal aim was to insert human rights into the legally binding post-Kyoto agreement to push an ambitious agreement and equitable implementation (Maldives,2007,2008). NGOs broadened the arguments to also focus on procedural rights to ensure that specific climate policies respect human rights and vulnerable groups (Schapper,2016). Ideas matter in the policy stream (Kingdon,1984,p.210); both the human rights framing of climate change and CCHR' practical relevance influence the viability of CCHR as a solution. CCHR framing also motivates action. One NGO puts it aptly: '[NGOs] will be the army behind [the small island nations].' (McKibben in Deitelhoff/Wallbott,2012,p.347).

The long process of softening up the system is crucial for policy change (Kingdon,1984,p.210). CCHR entrepreneurs pushed their issue in many fora, including NGO communities, media, regional and international organisations, and eventually UNFCCC. The Small Island Developing States' (SIDS) Male Declaration (Maldives,2007) and the first CCHR resolution in UNHRC (2008) set precedents that entrepreneurs leveraged to broaden their reach. These precedents also made it more difficult for opponents to deny CCHR linkages. Important channels to couple policy and problem streams also include the work of UN special rapporteurs and NGOs' evidence (e.g. on human rights provisions in forest-related climate actions) (Schapper/Lederer,2014, CIEL/CARE,2015). States' adoption of human rights language in reports to UNFCCC illustrates the success of the softening-up: in 2015, 49 national reports made explicit reference to human rights (MRFCJ,2016).

Politics Stream

The politics stream analyses organisational and political context (Kingdon,1984). Annual UNFCCC Conferences of Parties (COP) govern climate politics, and only the 2009 and 2015 COPs were expected to deliver legally-binding agreements. Policy entrepreneurs gear their efforts around this structure to position their proposals advantageously when the window opens. Regular windows make the cycle predictable, but not the content (Kingdon,1984).

Deitelhoff/Wallbott (2012) and Skillington (2012) show that climate negotiations provide difficult settings for moral leadership, as states usually put their interests first. The odds are stacked against small states in negotiations on politicised issues where outcomes are based on consensus and encourage bargaining towards lowest common denominators (Deitelhoff/Wallbott,2012,p.359). UNFCCC provides a unique policy setting facilitating advanced access of non-governmental actors (Schapper,2016); over 50,000 people participated in COP21 (Lane,2015). Nevertheless, states remain the key actors that ultimately determine outcomes (Knox interview).

The national mood and balance of interests, amongst others, influence this stream (Kingdon,1984). National moods affect state preferences and remain important in international negotiations. Furthermore, public expectations surrounding COPs are pertinent. NGOs, media and state coalitions seek to influence the public, both nationally and internationally. For CCHR, public pressure is particularly important because of the lack of structural power of CCHR advocates and vulnerable communities, whilst antagonists include powerful states (e.g. US and Saudi Arabia). The complexity of interests and power asymmetries, thus, makes CCHR an interesting case of agenda-setting.

CCHR Policy Entrepreneurs

Policy entrepreneurs invest resources to push their proposals and couple the streams (Kingdon,1984,p.188). They are more likely to succeed if they are persistent, enjoy access, and build coalitions (ibid, Cairney/Zahariadis,2016).

In 2007, a speech by the President in London started the Maldives' concerted effort to link climate change and human rights to spur ambitious climate action (Maldives,2008). The Maldives initiated the SIDS' Male Declaration, setting out a strategy to instrumentalise UN human rights bodies and eventually influence UNFCCC (Limon interview). The Maldives organised a series of CCHR events in Geneva and New York in 2007-2008, commencing the softening-up process (Maldives,2016). The SIDS linked CCHR to the 1.5°C target for temperature rises, arguing this is crucial for their survival (Gupta,2015, Adelman,2015). Their slogan became "1.5°C to stay alive." The Maldives acknowledged the SIDS' lack of structural power and strategically compensated through moral leadership leveraging CCHR, entrepreneurial leadership as outlined in the Male Declaration, and environmental leadership by becoming the first carbon-neutral country by 2020 (Deitelhoff/Wallbott,2012, DeAgueda/Mol,2014). The SIDS started to build momentum in the problem and policy streams. To overcome their lack of resources, the SIDS built coalitions with other climate vulnerable countries, and with NGOs to draw on their expertise and resources (DeAgueda/Mol,2014). While some countries were reluctant to support CCHR given their own human rights track-record (Wallbott,2014), the power of the moral argument facilitated coalition-building. Small states particularly benefit from the pooling of resources and development of a collective voice (Panke,2012a).

At the start of 2008, most UNHRC delegations questioned the link of climate change and human rights (Limon,2009). Nevertheless, the Maldives sponsored resolution 7/23, asking OHCHR to study CCHR linkages and, bearing the fruit of the softening-up process, ultimately solicited support from 80 co-sponsors against the opposition of major oil producers and consumers (Knox,2009,Maldives,2008). Building on the OHCHR report (2009a), and with the backing of, amongst others, Costa Rica, the Philippines and Switzerland, the Maldives expanded support for UNHRC Resolution 10/4 to 89 co-sponsors. Ahead of COP15 (Copenhagen), the Maldives initiated the Climate Vulnerable Forum (CVF), formalising a

coalition across Continents committed to ambitious action. At Copenhagen, the CVF attracted significant public and media attention, and the Maldives managed to position themselves as a broker between North and South (Ewing,2009). Nevertheless, CCHR entrepreneurs only managed a partial coupling. In the policy stream when the window opens prioritisation occurs (Kingdon,1984,p.175) and the CVF countries prioritised "1.5°C" over human rights language. Politically, the window closed quickly; no legally binding agreement was reached. At COP16 (Cancun), problem and policy streams were successfully coupled. Against significant opposition, lobbying of the Maldives, Switzerland, the UN High Commissioner and NGOs succeeded in inserting human rights language into the Cancun text – the first UNFCCC agreement to include CCHR (Limon interview). Despite the shortcoming in the politics stream – the agreement was not legally binding – Cancun was momentous in setting another precedent.

Several factors contributed to loss of momentum after Cancun. In the politics stream, there was no prospect for a legally binding agreement in the near term and continued opposition to CCHR at UNFCCC. In the policy stream, the CCHR coalition disintegrated on disagreement over the path forward, as the Philippines pushed a tougher line to attribute human rights violations to developed countries against the Maldives' prioritisation of international cooperation (Limon,2010). A coup d'état in the Maldives in 2012 eroded their capacity for moral leadership and led to a changeover in personnel (Goodman,2016). Bangladesh, Costa Rica and the Philippines took over leadership of the CVF (2016a).

NGOs and UN actors made a significant contribution to consolidating the problem and policy streams (for an in-depth discussion of NGOs' advocacy, see Schapper,2016). CIEL (and Earth Justice) supported the 2005 Inuit petition to the Inter-American Commission of HR (the first official CCHR linkage), advised the Maldives, and helped create and chair the CCHR Working Group (CCHRWG) (ibid). Mary Robinson drew attention to CCHR whilst UN High Commissioner for Human Rights and then created her foundation on climate justice (MRFCJ), which has been influential by leveraging its convening power to bring states and NGOs together for CCHR discussions (MRFCJ,2016, Knox interview). NGOs played important roles to further the CCHR agenda: they raised awareness amongst the public and state officials and supported states with their expertise, at times joining state delegations to UNFCCC. They leveraged local case studies to demonstrate impact, thereby bringing the human face of climate change to the negotiation table (Schapper,2016). Together with key states, NGO lobbying was crucial to create the UN mandate for an independent expert on CCHR (CIEL,2013). CCHR entrepreneurs collaborated with the special procedures mandate-holders and UN bodies to further the agenda, leveraging the UN to develop evidence and official recognition. The creation of the role of the independent expert and then special rapporteur on human rights and the environment set up a focal point for demonstrating and recognising the growing evidence on the human implications of climate change, thereby laying the ground for linkages of problem and policy stream.

Coupling all Streams at Paris

Paris was the crucial window, set to determine climate policies for decades. Working towards Paris, CCHR entrepreneurs strengthened their coalitions, collaborating to increase the pressure on the negotiations. The CCHRWG built a "supra-network" of rights groups to combine lobbying efforts – a crucial move to unify the NGO voice and overcome competition (Schapper,2016). Whilst this coalition threatened to break apart at various junctures, its broad power to mobilise public pressure and lobby countries, in coordination with pro-CCHR states and UN officials, was crucial to influence the politics stream (Johl,2016). For example, innovative use of social media (#Stand4Rights) helped sway Norway (HRW,2015b). Initiated by Costa Rica and facilitated by OHCHR and MRFCJ, the Geneva Pledge committed 30 countries (including COP21 Chair France and other developed countries, such as Germany) to CCHR, and was crucial for coupling policy and political streams (UNHRC,2016). Re-invigorating the problem stream, 14 UN special rapporteurs prepared a report to UNFCCC on the potential human rights implications of a 2°C versus a 1.5°C increase at the request of the CVF (Devandas et al,2015). The CVF leveraged the report extensively in negotiations on the Paris agreement (Knox interview, Pegram interview). The Philippines' CVF chair explains: 'For vulnerable countries, there is a single thing that will measure the ambition of Paris – the number "1.5"… We have an opportunity here to make a historic contribution to upholding human rights' (DeGuzman,2015). So, they did! The CVF was crucial to push ambition, helping to create the High Ambition Coalition, including the EU and US and chaired by the Marshall Islands, in another remarkable example of vulnerable states' leadership (King,2015). The combined efforts of the broad CCHR coalition ultimately coupled the three streams at Paris.

The Paris agreement is the first legally-binding agreement to explicitly recognise CCHR and the ambition to reach 1.5°C underscores this commitment (UNHRC,2016). MSA facilitates understanding of how the entrepreneurs managed the agenda-setting through consolidated efforts over a decade to couple the three streams. The strength of the idea and the persistent investment in the softening-up process were crucial. As Kingdon (1984) postulates, the problem and policy streams were ready long before the political window opened. Thanks to significant preparations for Paris, coupling all three streams was ultimately successful.

CCHR Prospects

MSA facilitates analysis of agenda-setting, but does not advance understanding implementation. Paris is a watershed moment for CCHR, and yet only the beginning (UNHRC,2016). A key challenge is that states' commitments fall significantly short of what is required to limit temperature increases to 1.5°C (ibid, Mueller,2016). We all share responsibility to use Paris' momentum and translate its words into action and CCHR entrepreneurs must lead the charge (Chia et al,2016). COP22 gives reason for cautious optimism: CCHR entrepreneurs put human rights on the discussion agenda and secured references in the first parts of the Paris implementation "rule-book", but there is a long road ahead (Pegram interview).

Conclusion

Putting CCHR on the climate negotiation agenda was a remarkable feat in agenda-setting. This MSA shows how framing the problem and the negotiation setting are critical in determining success of structurally weak actors, but ultimately that policy entrepreneurship and coalition breadth are crucial for conscience-based arguments to succeed. My analysis supports Kingdon's (1984) insight that, aside from effective advocacy and leveraging different fora, persistence is crucial.

This paper puts forward a specific narrative, so I acknowledge that there are inevitably neglected issues and perspectives. Further analysis would benefit from more interviews on negotiation dynamics and strategies to derive more generalisable conclusions on how structurally weak actors and moral leadership succeed against the odds. Cairney/Zahariadis (2016) suggest that higher-order symbols and framing make success more likely. My findings support this, but more empirical research is needed to substantiate these claims. Investigating the potential of moral leadership seems particularly important now that nationalism is on the rise. President-elect Trump's "America first" threatens to derail Paris, and changeover of personnel compared to Paris alters future negotiation dynamics and may foster divergence of the streams. Finally, this paper supports Lipson's (2007) argument, that MSA is a useful framework for analysing international and UN policy-making and could provide further interesting insights if applied to other issues areas. Such inquiries would benefit from the development of a more rigid international/UN MSA framework.

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