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## Treading Well beyond the Ecological to Account for Socioecological Systems and Human Rights in Climate Adaptation Law

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## BRIEFLY NOTED

# Treading Well beyond the Ecological to Account for Socioecological Systems and Human Rights in Climate Adaptation Law

By Ann M. Eisenberg

The legal tradition embraces categorization. We address property disputes through property law, agreements through contract law, and pollution through environmental law. But climate change defies categorization. Climate change's anticipated positive feedback loop is not limited to purely environmental issues: rising water levels will cause displacement and compromise livelihoods; compromised infrastructure will undermine energy and water security; and diverse other social and physical disruptions will contribute to social volatility. Already, the Syrian refugee crisis has underscored climate change's profound impacts on human welfare: climate-change-fueled drought leads to displacement, displacement leads to unrest, unrest leads to civil war. See Aryn Baker, *How Climate Change Is Behind the Surface of Migrants to Europe*, *TIME* (Sept. 7, 2015), <http://time.com/4024210/climate-change-migrants>.

Many now acknowledge that the artificiality of conceptual categories has gotten us here in the first place. It was to our detriment that we treated nature and the environment as separate from humans. But perhaps all too similarly, we have treated rights in artificial isolation from one another. Just as communities, countries, and the world must adapt to climate change by recognizing interconnections, perhaps rights-based climate adaptation law must also evolve to accommodate the nature of the sub-elements of systems operating together.

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Two examples suggest that legal understanding could evolve to encapsulate the interconnectivity of matters traditionally treated in isolation from each other, with a view towards a body of law that can better account for human rights in the context of climate adaptation. First, civil rights protections strengthen environmental human rights protections. The evolving consensus on environmental human rights focuses on physical aspects of the environment—the right to clean water, for instance. But an overlooked, critical precursor to enjoyment of rights related to the physical landscape, frequently, entails rights related to speech, association, and organization.

The recent cessation of a major hydro-power project in Chile provides an excellent example of this relationship: because indigenous, environmental, and other civil society groups were afforded rights to assemble in domestic Chilean legislation, stakeholders were able to voice their opposition to the project loudly enough to stop it. See *Chile Rejects Huge Hydro-electric Project in Patagonia*, *BBC NEWS* (June 10, 2014), [www.bbc.com/news/world-latin-america-27788286](http://www.bbc.com/news/world-latin-america-27788286). This form of non-legal resource is frequently more effective than recourse to formal mechanisms of justice. Thus, rights aimed to protect civil society may be considered a fundamental corollary to environmental human rights. See Ann Eisenberg, *Civil Society versus Transnational Corporations in International Energy Development: Is International Law Keeping Up?* in *CHINA, GOOD GOVERNANCE, AND MARKETS IN LIGHT OF ECONOMIC DEVELOPMENT* (Paolo Farah Ed., Routledge Publishing, forthcoming 2016).

As a second example, reproductive rights strengthen economic, social, and cultural rights protections. Connections

between the stresses of overpopulation and stresses upon other limited resources are surprisingly underexplored. Cf. Madeleine Somerville, *Want to Help Fight Climate Change? Start with Reproductive Rights*, *THE GUARDIAN* (May 31, 2016). The regions most vulnerable to the effects of climate change—which United Nations delegates believe will have a disproportionate impact on women and girls—are also the regions that struggle the most with population growth. A more systems-oriented view of human rights could recognize that women's lack of reproductive autonomy fuels population stress, and in turn, stress upon resources.

As a practical and theoretical matter, it is difficult to know what steps to take after recognizing that civil rights are environmental rights and that reproductive rights are environmental rights. The past several years have seen an increase in scholarship and resources for practitioners that address relationships among international law, human rights, climate adaptation, and socioecological systems. See, e.g., *Practical Tools for Addressing Climate Change* (International Standards Organization 2015); Edward Cameron, *Human Rights and Climate Change: Moving from an Intrinsic to an Instrumental Approach*, 38 *GA. J. INT'L & COMP. L.* 673 (2010). But rarely have the discussions gone into enough detail so as to explore relationships such as those mentioned above. At least two simple takeaways can be gleaned from this discussion: (1) environmental law scholars and practitioners can have more of an impact when they consider non-ecological issues such as civil rights; and (2) human rights scholars and advocates focused on areas normally considered non-environmental, such as reproductive rights, can be recognized as contributing to climate adaptation mechanisms. ♦