

## **From the Local to the Global: Learning About the Adverse Human Rights Effects of Climate Policies**

Andrea Schapper, University of Stirling

### **Abstract**

In this paper, I elaborate how transnational advocacy networks (TANs) use local experiences and knowledge to teach climate negotiators about the adverse human rights effects of climate policies. Employing a variety of tactics, including information politics, symbolic politics, leverage politics and accountability politics, they initiate instrumental and social learning processes among state representatives. Learning about rights impacts leads to a policy transfer between the human rights regime as the source institution and the climate regime as the target institution and institutional interaction through commitment. In this paper, I will concentrate on the activities of one particular TAN, the Human Rights and Climate Change Working Group, and how it has fostered the institutionalization of human rights into the Paris Agreement 2015. My research is based on a content analysis of primary and secondary documents, expert interviews and participatory observations at the COPs in Warsaw (2013), Paris (2015) and Bonn (2017).

### **Introduction**

Climate policy-making is a complex endeavor. In order to address a number of competing concerns, new regulations are adopted and more institutions are built – often with little consideration of legislative and institutional arrangements in related policy fields. As a result, institutions are becoming increasingly specialized, compartmentalized and fragmented, sometimes leading to norm conflicts or “material and functional overlaps between international institutions” (Zelli and van Asselt 2013, 1). One specific norm conflict can be observed at the intersection between climate change, climate policies and human rights. On the one hand, climate change impacts, such as rising sea levels, temperature increase and extreme weather events hamper the realization of economic, social and cultural rights, including the right to health, water, food and adequate housing. Affected regions are coastal areas, low-lying island states, the Arctic Region but also Sub-Saharan and Northern Africa, South and South-East Asia, the Caribbean and Latin America. In very severe cases, droughts, floods, hurricanes or typhoons can also affect the right to life (OHCHR 2009). On the other hand, climate policies, including those adopted as part of the United Nations Framework Convention on Climate Change (UNFCCC), can lead to adverse human rights effects at the

grassroots level. Mitigation projects contribute to implementing the UNFCCC's guiding norm, i.e. the stabilization of greenhouse gas emissions (UNFCCC 1992), but can collide with the protection and provision of basic human rights. Projects of the Clean Development Mechanism (CDM) or Reducing Emissions from Deforestation and Forest Degradation (REDD+), for instance, have previously led to limited access to land, water or cultural sites for local population groups and infringe on economic, social and cultural rights and on indigenous peoples rights (Schade and Obergassel 2014). If affected citizens do not have access to relevant information about climate policy implementation, if they are not properly consulted or if they cannot participate in respective decision-making processes, civil and political rights are violated as well (Author and Co-author 2014). One prominent example is the Barro Blanco hydroelectric dam that was de-registered as a CDM project by the government of Panama after it was severely challenged by a transnational alliance around the indigenous Ngäbe communities due to violations of human and indigenous peoples rights (Carbon Market Watch 2016). Problems with adverse rights impacts of mitigation and adaptation policies can mainly be observed in Latin America, Asia and Africa.

Every year, member states of the UNFCCC negotiate at the Conference of the Parties (COP) to review the convention's implementation, to adopt legal instruments or to make additional institutional arrangements. Civil society organizations (CSOs) can participate in UNFCCC negotiations as accredited observers representing the interests of particular societal groups. Whereas the UNFCCC has initially been characterized by strong engagement of business stakeholders and environmental organizations, other actors have now entered the scene, among them indigenous peoples, faith-based groups, gender advocates and human rights activists often organized in transnational advocacy networks (TANs).

TANs can be grasped as communicative structures, in which a range of activists guided by principled ideas and values interact. These ideas and values determine criteria for evaluating whether particular actions and their outcomes are just or unjust. TANs create new linkages, multiply access channels to the international system, make resources available to new actors and help to transform practices of national sovereignty. Within these networks, international and local CSOs, foundations, the media, churches, trade unions, academics and even members of regional or international organizations (IOs) collaborate (Keck and Sikkink 1998, 1-9).

In this paper, I elaborate how TANs use local experiences and knowledge to teach climate negotiators about the adverse human rights effects of climate policies. Employing a variety of tactics, including information politics, symbolic politics, leverage politics and accountability

politics (Keck and Sikkink 1998), they initiate a learning process among state representatives. Learning about rights impacts leads to a policy transfer between the human rights regime as the source institution and the climate regime as the target institution. In this paper, I will concentrate on the activities of one particular TAN, i.e. the Human Rights and Climate Change Working Group (HRCCWG). It has been selected as a case study for this research because it is the only TAN that solely concentrates its activities on institutionalizing human rights in the climate regime. I will particularly focus on the inclusion of the commitment to respect, protect and consider human rights in the preamble of the Paris agreement as one success of the HRCCWG (UNFCCC 2015a). The research for this paper is based on a content analysis of primary and secondary documents (Mayring 2014), interviews with experts (Witzel and Reiter 2012) of the HRCCWG at the COPs in Warsaw (2013), Paris (2015) and Bonn (2017) as well as participatory observation at the strategic planning meetings of TANs at these three conferences.

This paper makes a contribution to debates on environmental and climate policy learning (1) by exploring non-hierarchical ways of multi-level learning using local experiences to make international policy changes, (2) by analyzing the politics behind the learning process, including the strategic use of information, symbols, leverage and accountability mechanisms, (3) by outlining how non-state actors pool their resources to teach basic norm principles to state actors and thereby transform practices of national sovereignty and (4) by investigating how policy transfer takes place between two different policy fields and fosters institutional interaction between the human rights and the climate regime. The latter is in line with earlier studies by Orsini (2013, 2016) who investigates the influence of “multi-forum” non-state actors on regime complexes. This article will reveal new insights in this strand of research by shedding light on the mechanisms and tactics employed by TANs in order to foster institutional interaction through commitment (Gehring and Oberthür 2009).

In the following, I will introduce some initial thoughts on policy learning and then elaborate on civil society participation and more particularly, human rights advocacy at the climate negotiations. Finally, I will reflect on the role of TANs as policy teachers initiating institutional interaction between the human rights and the climate regime, before I conclude.

## **Policy Learning in the International Climate Arena**

### ***Conceptual thoughts about policy learning***

Policy transfer is grasped as the process of using knowledge, administrative arrangements, institutions and ideas in one political system or jurisdiction to inform policy development in another one (Dolowitz and Marsh 1996). Not only policy programmes are the object of transfer or learning; institutions, ideologies and justifications, attitudes and ideas or even negative lessons can be conveyed as well (Dolowitz 1997). The sources of learning do not have to stem from the same policy field; there can be exogenous sources from other jurisdictions and policy fields as well (Challies et al. 2017, 296). Policy learning and social learning are strongly related to policy transfer but need to be grasped as analytically distinct concepts. When social learning takes place, cognition and interest re-definition play a crucial role. On the basis of new knowledge, fundamental ideas and beliefs pertinent to policy approaches may have to be reconsidered (Stone 1999). Thus, a distinction has to be made between social learning which may result in a more coherent policy transfer and instrumental (or tactical) learning which may lead to copying a policy approach without changing the underlying interests, beliefs and ideas (Stone 1999, 56).

Hurlbert and Gupta (2017, 868) differentiate between degrees of change as the result of a learning process; single-loop learning refers to a change in practices, double-loop learning leads to a change in institutional patterns and triple-loop learning initiates change in the underlying assumptions of these institutional patterns, including fundamental norms and values. Social learning can be associated with double- and triple-loop learning; it combines altered practices with changed government frameworks supportive of these practices (O'Donnell et al. 2018, 2). Learning by an individual or an organization, however, does not necessarily lead to policy change. Lacking capacities or cost-effectiveness, veto players, or complexity can hamper change (Dunlop and Radaelli 2018, S61).

Knowledge and information are key to drawing lessons about improving policies. Lesson-drawing often implies an evaluative element; is there something we can learn from the past or from other country contexts that would help us make better policies? (Rose 1991, 6-7). Dolowitz and Marsh (1996, 2000) have developed an analytical framework on the basis of six questions that can guide policy transfer and policy learning research. These questions focus on (a) key actors in policy transfer, (b) reasons for engaging in transfer, (c) policy content transferred, (d) from where lessons are drawn, (e) degrees of transfer, and (f) barriers and facilitators of policy transfer (Dolowitz and Marsh 2000, 8).

### *Learning about climate policies*

Due to the complexity of social-ecological interactions, problems related to the environment and climate change are often understood as “wicked problems” (e.g. Peters 2017) requiring sophisticated policy solutions. Learning about climate policies takes place in different fora, at various levels, and often in distinct actor partnerships. Governments do not only draw on the experience of other governmental policy-makers but also rely on specialist knowledge of epistemic communities (Haas 1992) or TANs (Keck and Sikkink 1998). These communities and networks base their authority on expert knowledge, professional experience or common norms and beliefs – and they provide an important channel for transfer relying on informal modes of interaction (Stone 1999, 54-57). Experts can be granted participatory or consultative rights in a policy-making process and often develop close relationships with decision-makers. Bomberg highlights the understudied role of environmental CSOs as exporters or teachers of policy lessons (2007, 248). A learning framework, she argues, leaves room to explore the role of CSOs as exporters of knowledge but also accommodates non-adoption or non-transfer (Bomberg 2007, 255-256). Another relevant category is political learning, referring to the process of learning to become a sophisticated policy advocate (May 1992, 332).

In this article, I will focus on the international climate conferences as a learning space. Compared to other negotiation arenas, the climate conferences are particularly inclusive allowing for wide participation and increased interaction between governmental delegations and civil society. Here, CSOs’ role as policy teachers is particularly likely to unfold.

### **Civil Society Participation at the International Climate Conferences**

Since the 1992 UN Conference on Environment and Development, climate diplomacy has been pioneering in granting access to a number of non-state actors resulting in “hybrid multilateralism” facilitating new forms of climate cooperation (Bäckstrand et al. 2017). Civil society participants are understood to bring expertise and credibility to IOs and negotiations. In open and transparent negotiation processes, states increasingly take up non-state demands (Steffek and Nanz 2008).

The focus of the climate movement in negotiations is on addressing justice concerns. Climate justice comprises the observation that those, who have contributed the least to climate change, are those who are affected by it the most (Bedall and Görg 2014). The climate justice movement is characterized by a dominant antagonism between a moderate wing accepting

capitalism and lobbying for change within established institutions and into a radical wing viewing capitalism as a root cause for climate challenges that has to be changed (della Porta and Parks 2014). This results in cooperative and conflictive activities of TANs within and outside of the UNFCCC process (Brunnengräber 2014).

At the international level, shaping climate policies can be best realized through CSOs' participation in climate conferences (Bernauer and Betzold 2012, p. 63). Those organizations with strong ties to state delegations have the most advanced access. They become part of the official UNFCCC process by acting as accredited observers (Bedall and Görg 2014). In some cases, civil society actors even become members of national delegations (Bernauer and Betzold 2012, p. 63). This increases their opportunities to influence governmental decisions since it provides them with access to closed sessions, official state documents and the possibility to present own proposals (Böhmelt, Koubi and Bernauer 2014, p. 19). Governmental delegations are interested in including CSOs because they provide expertise (Betsill and Corell 2008) and can enhance the legitimacy of their decisions (Streck 2004). CSOs, in contrast, use their close interaction with governments to exert pressure for negotiating, ratifying and complying with international environmental agreements (Bernauer, Böhmelt and Koubi 2013).

There are some particulars about TANs active at the international climate conferences: their networks are characterized by a particular hybridity – actors may join for a short period of time and then leave again – and participating organizations can be quite diverse. Although groups of the Global South are usually underrepresented in these networks (Brunnengräber 2014), local CSOs from developing countries are increasingly funded by international CSOs to voice their concerns. This means actors work at various scales, they differ in their degree of institutionalization and in their positioning toward the UNFCCC process (inside/outside).

During the negotiations in Paris, the climate movement used the window of opportunity for joint mobilization – and a high degree of unification could be observed, even among groups that previously followed adverse objectives (de Moor 2017). Kuchler (2017) describes a human rights turn within the movement, even among environmental CSOs. Justice-based framing increased attention to civil society concerns, enhanced media interest and facilitated non-governmental coalition-building, which translated into influence among state actors (Allen and Hadden 2017).

## **Human Rights Advocacy in the Climate Change Arena**

The HRCCWG became operative during COP 15 in 2009 in Copenhagen.<sup>1</sup> It can be described as a hybrid link of predominantly civil society and some state actors operating at various scales – from the local to the global<sup>2</sup>. Among the networks' members are prominent international CSOs, such as the Center for International Environmental Law, Earthjustice, Friends of the Earth and Carbon Market Watch, Human Rights Watch, Amnesty International, but also local CSO from various developing countries, gender advocates, indigenous peoples' representatives, academics, representatives from IOs as well as single actors from state delegations<sup>3</sup>. Membership in the network is rather informal; participants can be present at one negotiation meeting and then miss out on the next one<sup>4</sup>. Simultaneously, they can be part of another TAN, like Climate Action Now or the Indigenous Caucus<sup>5</sup>.

Since 2010, the HRCCWG has initiated and contributed to several rights institutionalization processes, including rights references in the Cancun Agreement (UNFCCC 2010) or the review of the modalities and procedures of the CDM with a focus on procedural rights, like access to information, transparency, participation in decision-making and access to justice (Kuchler 2017). In this article, I will particularly focus on the inclusion of the commitment to respect, protect and consider human rights in the preamble of the Paris agreement (UNFCCC 2015a).

### ***Network Strategies***

The most successful strategy the HRCCWG has employed for achieving its objectives was to build friendly relations with the governmental decision-makers at the climate negotiations. Making use of these receptive relations, the network receives access to negotiating texts and attempts to include human rights language in respective drafts asking state parties to introduce these in closed negotiation sessions:

Most of the actual negotiating meetings have been closed to me because I'm civil society but a lot of times I'll go and network with parties [...] and we're staying outside the door and if we have position papers on different things, we'll ask parties to introduce an item [...]. One of our [...] points is actually looking at the text,

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<sup>1</sup> Interview, Coordinator HRCCWG, 16/11/2013, COP 19, Warsaw.

<sup>2</sup> Interview, Indigenous Rights Organization, 16/11/2013, COP 19, Warsaw.

<sup>3</sup> Interview, Representative Human Rights Watch, 8/12/2016, COP 21, Paris.

<sup>4</sup> Interview, Activist HRCCWG, 17/11/2013, COP 19, Warsaw.

<sup>5</sup> Ibid.

examining it, seeing places that we think could be improved to better support the issues that we want them to support and then actually suggesting language. [...] I know several parties that I can just ask for: ‘What happens in that meeting?’ or ‘could you possibly pass on to me the text?’ [...] so that part is really through the relationship that you have with the parties.<sup>6</sup>

Relations with state parties are particularly well-established if the negotiators are open to human rights arguments due to their own liberal democratic state identity or if they rely on the network’s expertise and capacities like a number of developing countries do. If the latter is the case, network members provide their expert knowledge and attend sessions on behalf of small delegations that cannot afford to travel to the negotiations with a large number of staff.<sup>7</sup>

To justify the use of human rights language in climate agreements, the HRCCWG frequently works with case studies emphasizing the adverse effects of climate change and climate policies on local people from Asia, Latin America and Africa<sup>8</sup>. At the climate negotiations, case studies are usually presented during so-called side events<sup>9</sup> that run parallel to the meetings of state parties and are accessible to all, governmental delegations and non-state observers. Cases on problematic rights situations are sometimes presented by locally affected people themselves. The international partners of the HRCCWG sponsor some of them so that they are able to join international meetings and bring forward their experiences and corresponding demands. In this way, local claims are fed into the international negotiation process. A Human Rights Watch representative summarizes the objective of transporting local claims to the international negotiation table in the following:

Of course, in a COP like here there are many groups from different countries but still if you think about representation, these won’t be the most disadvantaged people that will make it to these international negotiations. So I think this is also what we are trying to do with our work generally but also in this context is bringing the voices of those that are not usually being heard to the international negotiations.<sup>10</sup>

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<sup>6</sup> Interview, Women’s Rights Organization, 15/11/2013, COP 19, Warsaw.

<sup>7</sup> Ibid.

<sup>8</sup> Interview, Environmental Think Tank, 16/11/2013, COP 19, Warsaw.

<sup>9</sup> Interview, Indigenous Rights Organization, 16/11/2013, COP 19, Warsaw.

<sup>10</sup> Interview, Human Rights Watch, 8/12/2015, COP 21, Paris.



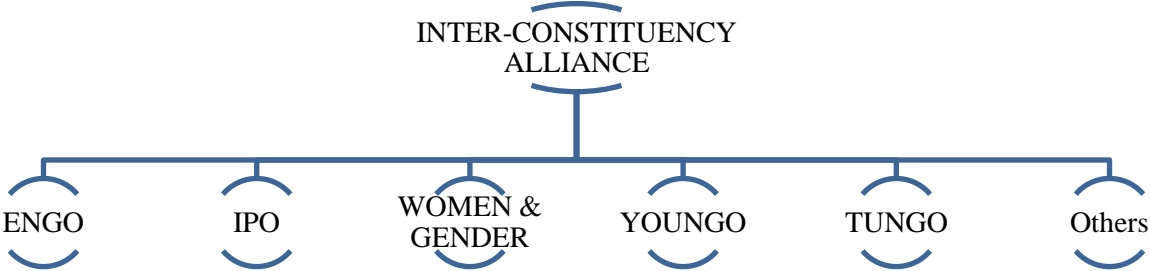
Altogether, we can find a two-way-process here: Local advocates inform the policy-making process of states within the forum of an IO and their decisions can, in return, change climate policy implementation at the local level<sup>11</sup>.

***The “Supra-Network”***

At COP 21 in Paris, the HRCCWG initiated an inter-constituency alliance in order to combine the strengths of several civil society networks at the negotiations of a new climate treaty. This inter-constituency alliance can be understood as a “supra-network”, i.e. a network above several networks, sharing the same objectives in shaping the Paris Agreement. The constituencies at the UNFCCC negotiations are clustered groups of officially registered CSOs sharing certain interests and acting as observers in the process. As of 2014, the UNFCCC Secretariat reports more than 1,600 admitted CSOs that are organized in nine constituencies, among them environmental CSOs (ENGO), business and industry CSOs (BINGO), indigenous peoples organizations (IPOs), youth CSOs (YOUNGO), women and gender (WOMEN AND GENDER), trade union CSOs (TUNGO) as well as research and independent CSOs (RINGO). Most observer CSOs are organized within the ENGO constituency (41%) or as RINGO (25%), followed by BINGO (15%), YOUNGO (5%), TUNGO (3%), IPO (1%), WOMEN AND GENDER (1%), and there are also non-affiliated CSOs (UNFCCC 2015b). Participation in a constituency comes with several advantages; it allows observers to make interventions at certain points in the course of the state negotiation process, it facilitates the use of focal points for better coordination with the UNFCCC Secretariat and it enhances flexible information-sharing (UNFCCC 2014).

Figure one presents the most active constituencies in the network alliance.

**Figure 1: Inter-constituency alliance**



<sup>11</sup> Interview, Indigenous Rights Organization, 16/11/2013, COP 19, Warsaw.

Prior to the Paris negotiations, the inter-constituency alliance was established due to the fact that most observer organizations shared some common concerns. Among them were the protection and fulfillment of human rights, indigenous peoples’ rights and sustainable development, a just transition of the workforce and the creation of decent jobs, equal participation of women as well as inter-generational equity. During the Intersessionals in Bonn in June 2015, the alliance managed to place all of these aspects in the operative part of the negotiation text in article two. This was quite meaningful because article two was to determine the objective of the Paris Agreement. Including human rights there would have meant to acknowledge that the purpose of the agreement is the protection and fulfillment of basic rights in the face of a changing climate.<sup>12</sup>

However, the entire article two was still in brackets after Bonn and almost during the entire Paris conference. This means the text was still subject to further negotiations. Two days before the agreement was adopted, human rights were removed from the operative part of the text and only remained in the pre-ambulatory clauses. Nevertheless, human rights and all the other related aspects the inter-constituency alliance advocated for remained part of the preamble. This can be seen as a network success that can be traced back to the strong collaborative effort of the supra-network which coordinated its activities and harmonized its strategies to then go back into the sub-networks to lobby with their specific state partners.

Table one demonstrates that the text reference on human rights in the Paris preamble is heavily based on a text submission fed into the UNFCCC process by the HRCCWG and the inter-constituency alliance. Legal analysis confirms that human rights in the preamble of the Paris Agreement are meaningful as this is the first legally binding climate instrument – that has to be ratified by state governments – containing human rights (Carazo 2017: 114).

**Table 1: Comparison of HRCCWG Observer Submission and Paris Agreement**

Observer Submission	Paris Agreement 2015
<b>Inter-constituency proposal</b> Art. 2 of the Agreement	<b>Adopted by states</b> Preambulatory Clauses
<b>“This Agreement shall be implemented [...] while ensuring the respect, protection, promotion and fulfillment of human rights, including the rights of indigenous peoples; gender equality and the full and equal participation of women; intergenerational equity; a just transition of the</b>	<b>“[...] 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</b>

<sup>12</sup> Interview CARE, 8/11/2017 COP 23, Bonn.

workforce that creates decent work and quality jobs; food security; and the integrity and resilience of natural ecosystems.”

situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,”

### *Enhanced Outreach on the Road to Paris*

Besides initiating and coordinating the inter-constituency alliance, there were also other changes to the HRCCWG leading to a strengthening of its advocacy efforts. After they had commenced working mainly with environmental law organizations, representatives from indigenous peoples’, and women’s rights CSOs, the big non-governmental human rights players, Human Rights Watch and Amnesty International, came on board at the COP in Lima in 2014.

In addition to these new non-governmental partners from the human rights regime, state actors joined the working group as well. Among them were mainly IOs, like the OHCHR and UNICEF. Both took an active part in the network, further developed its strategy at the coordination meetings and engaged in awareness-raising activities. A representative of the OHCHR summarizes their objectives at the COP and in relation to establishing the link between the human rights and climate regime as the following:

We think this is an issue of consistency and policy coherence that it is important that these two legal frameworks are brought together and in fact should complement each other. So the international human rights framework is a legally binding commitment made by the states and we think that commitment should be recognized in the context of environmental laws and we’re pushing hard to see that be the case.<sup>13</sup>

Besides IOs, there were also some states taking an active part in the promotion of human rights in the climate agreement. Already prior to the negotiations, eighteen governments took action and initiated the *Geneva Pledge for Climate Action* calling for enhanced institutional interaction between the UNFCCC and the OHCHR, and emphasizing that human rights obligations need to be observed in all climate-relevant actions. Among the committed states were mostly Latin American countries (e.g. Mexico, Peru, and Costa Rica), many small island states (e.g. Maldives, Kiribati and Samoa) as well as few European nations (e.g. France, Sweden and Ireland).

Another great push for human rights in the climate regime came from increased media attention and a successful twitter campaign. Under [#Stand4Rights](#) the HRCCWG and several

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<sup>13</sup> Interview OHCHR, COP 21, Paris, 10/12/2015.

of their partners, disseminated information regarding new versions of the negotiating text, spread the word on further awareness-raising actions and put pressure on governments arguing against rights in the climate agreement during the negotiations.

Thus, prior to and in Paris, the network was profiting from an enhanced outreach including combined strengths in the inter-constituency alliance, active participation of IOs and state actors as well as increased press and social media coverage. All of these aspects led to an at least partial success – an institutionalization of human rights in the preamble of the new climate agreement.

### **Policy Learning Fostering Institutional Interaction**

What representatives of the HRCCWG have described as first successes in institutionalizing human rights in the climate regime can best be explained by the research program on institutional interaction or regime interplay (Young 2002, Oberthür and Stokke 2011). Institutional interaction means that the institutional development or effectiveness of one institution becomes affected by another institution (Gehring and Oberthür 2006, p. 6). Interaction can also occur across policy fields leading to both, conflict or synergy. The relationship between regimes is often characterized by normative conflict, counteracting efforts or duplication of activities. Instances of interaction with synergetic effects have received less attention yet. Institutional interplay can lead to a situation in which contents of one regime are changed using components of another regime as a model for emulation (Stokke 2001). Management of regime interplay becomes particularly relevant when activities in one regime lead to “negative externalities” in another regime, referring to costs that were not taken into account at the point in time when the decision about the activities was taken. To maintain legitimacy, policy coherence is relevant. This means an institution can be bound to norms acknowledged within another institution (Stokke 2001: 14-17).

One focus in the research program on institutional interaction is to identify causal mechanisms of influence exerted from one source institution to a specific target institution (Gehring and Oberthür 2006, pp. 6-7). These comprise, *first of all*, cognitive interaction, or learning. Here, the source institution disposes of insights that it feeds into the decision-making process of the target institution (Gehring and Oberthür 2009, p. 133). *Second*, interaction through commitment means that the member states of a source institution have agreed upon commitments that might be relevant for the members of the target institution as well. If there is an overlap of membership, the commitments made in the source institution can lead to

differing decision-making in the target institution (ibid: 136). *Third*, behavioral interaction comes into play if the source institution has obtained an output initiating behavioral changes that are meaningful for the target institution. In cases like this, the initiated changes in behavior can foster further behavioral changes (ibid: 141-142). And *fourth*, impact-level interaction is based on a situation of interdependence, in which a “functional linkage” (Young 2002) between the governance objectives of the institutions can be observed. If the source institution obtains an output that has an effect on the objectives of the source institution, this impact can also influence the objectives (and effectiveness) of the target institution (Gehring and Oberthür 2009, pp. 143-144).

For developing a better understanding of institutional interaction between the human rights and the climate regime, the micro-macro link (Buzan, Jones and Little 1993), i.e. the mechanisms at play between the micro-level of actors and the macro-level of institutions, needs to be further established. Orsini has conducted ground-breaking research in this regard by studying the influence of “multi-forum” non-state actors on evolving regime complexes (Orsini 2013, p.35, Orsini 2016). She has developed the concept of “forum-linking” through which non-state actors try to integrate forums and refer to a common normative framework as well as a division of labor in relation to governance functions (Orsini 2013, p.41).

In this paper, I argue that TANs have fostered *institutional interaction through commitment* in the decision-making process of a new climate agreement.<sup>14</sup> They remind UNFCCC member states that they have made legally binding commitments in the human rights regime that are being infringed upon at the local level by implementing certain climate policies with adverse rights effects. Many of the state negotiators were not even aware of these commitments because they are climate experts and not familiar with the legal obligations in another forum. Research on TANs provides useful insights about the politics behind the learning process fostering this interaction. TANs use a series of mechanisms to initiate learning among state negotiators about the commitments they have made in the human rights arena – and how to apply them in climate politics.

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<sup>14</sup> Cognitive interaction would mean that a new insight from the human rights regime could be used for the climate regime. Behavioural level and impact level interaction only become relevant in climate policy implementation, not in the formulation of a new climate agreement.

### *The Role of TANs as Policy Teachers*

Keck and Sikkink have developed a typology of tactics TANs use when they try to teach and convince state actors. In this context, they highlight (1) *information politics* understood as strategically using information, (2) *symbolic politics* as to draw on symbols and stories to highlight a situation to a target audience that might be geographically distant, (3) *leverage politics* as network actors being able to gain moral or material leverage over state actors and IOs as well as (4) *accountability politics* referring to formerly adopted norms and policies of governmental actors and obligations to comply with them (Keck and Sikkink 1998, pp. 16-25).

At the climate conferences, a similar pattern can be observed: affected people and local CSOs provide information on rights infringements in climate policy implementation in certain states to advocacy networks. TANs, like the HRCCWG, use this information to mobilize other actors of the human rights regime (*information politics*). At side events, for example, TANs encourage local actors to share their cases and stories from home countries to raise awareness about adverse human rights effects of both climate impacts and climate policies. This local knowledge is particularly important as many state negotiators are not aware of the grassroots effects of the climate policies they design – and at the COP side events, they are directly confronted with these local stories (*symbolic politics*). These cases are presented as instances of climate injustice in which local population groups who have contributed little to greenhouse gas emissions and have few resources to adapt, cannot fully enjoy their human rights due to climate impacts or experience severe rights infringements due to climate policies. This creates moral leverage over states that have historically contributed to emissions and that are financing climate policies in developing countries (*leverage politics*). Moreover, TANs persuade states to vote for an incorporation of human rights into climate agreements. Mechanisms of persuasion (and discourse) function according to a logic of appropriateness (or a logic of arguing) and are particularly successful with (often liberal democratic) states governments (Risse and Ropp 2013, pp. 16-17) that have already legally committed to human rights understanding them as part of their state identity, e.g. France, Sweden and Ireland (*accountability politics*). Actively engaged and in favor of rights institutionalization are also those states that are pressured from above through TANs and from below through domestic CSOs. These often are Latin American countries with strong CSO movements representing local community's and indigenous peoples' concerns. Among them are Mexico, Peru, Costa Rica, Guatemala and Uruguay. Especially in those countries a boomerang pattern can be

observed as domestic CSOs pressure the government to change the modalities and procedures of climate policy implementation from inside, while TANs and the human rights regime exert pressure on the government from outside the country. Also in favor of rights institutionalization are small island states, such as the Maldives, Kiribati, Samoa or the Philippines, fearing severe climate change consequences for their citizens. Some states (together with other actors of the human rights regime) also try to pressure less democratic states to vote in favor of rights institutionalization claiming that they will not fund climate policies with adverse right affects anymore. Thus, they use negative incentives or sanction mechanisms that function according to a logic of consequences (Risse and Ropp 2013, p. 14).

In some cases, however, policy teaching by TANs is not sufficient and does not lead to state actors supporting rights institutionalization in the climate regime. The reason for this are cost-benefit calculations. States like the USA, for instance, have remained opposed to rights institutionalization in the operative part of the Paris Agreement<sup>15</sup> (and in previous negotiations) because they fear costly obligations and demands for compensation.<sup>16</sup> African countries rather fear that conditionalities will be imposed in the course of climate policy implementation, especially if funding is provided by Annex I parties. They emphasize their state sovereignty and are concerned that deficiencies in their domestic rights situation could be exposed – and that the international community would interfere in their domestic affairs with the help of procedural rights in climate policies (Co-Author and Author 2017).

### *Three Types of Learning Processes*

If we look back at the successes of the HRCCWG in institutionalizing human rights in the climate regime, we can see that an institutional policy transfer has taken place. In the preamble of the Paris agreement, states have unanimously recognized that respective rights obligations need to be respected when addressing climate change (UNFCCC 2015a). By recognizing human rights, the UNFCCC as an institution has changed its practices from keeping discourses about climate change and human rights separate to combining both. Behind this policy transfer, we can unravel three types of learning processes by UNFCCC member states and TANs as policy teachers.

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<sup>15</sup> At the Paris negotiations, the US actually spoke in favor of human rights but did not agree to them being included in article two.

<sup>16</sup> Interview, Coordinator HRCCWG, 16/11/2013, COP 19, Warsaw.

Some of the states that have agreed to including rights in the preambulatory clauses of the Paris agreement have merely engaged in *instrumental learning* or single-loop learning. They agree to a policy transfer without changing underlying interests or beliefs. One example are the USA, who are afraid of the costs considering historic emission responsibilities. African states fear conditionalities in climate policies and exposure of their own human rights deficiencies. They have agreed to mentioning human rights in climate agreements as a change in practice (single-loop learning) but they have not changed their underlying interests and beliefs (Hurlbert and Gupta 2017) – and have strongly opposed a change in institutional patterns during the negotiations.

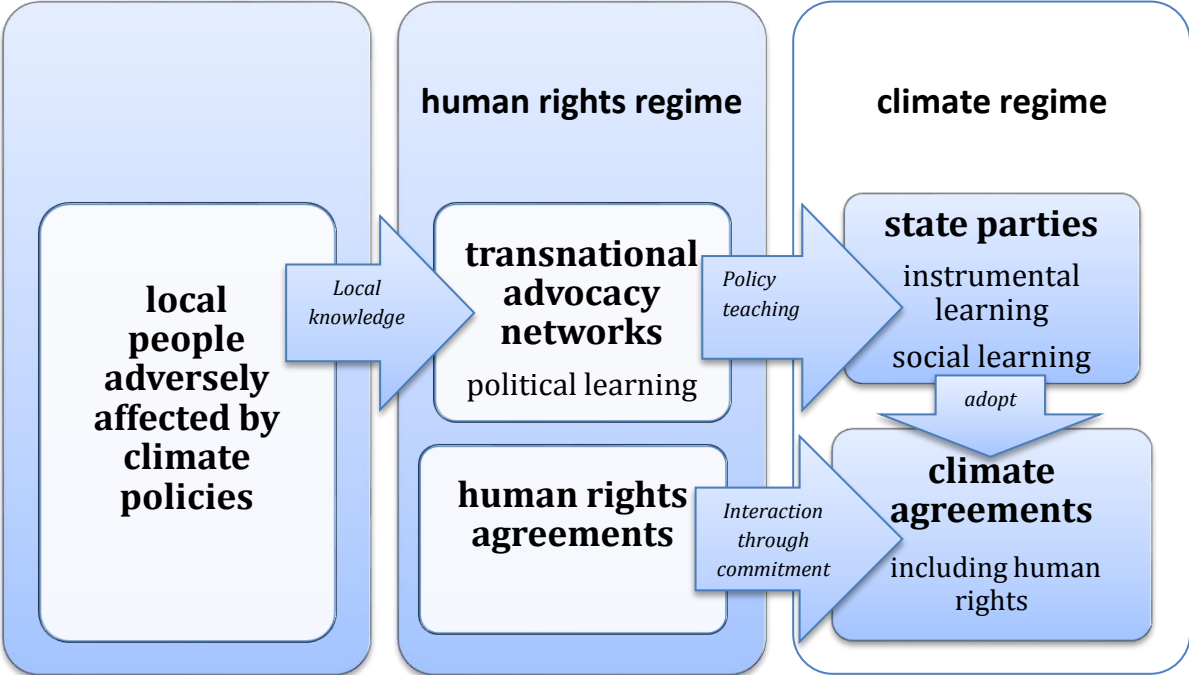
In some cases, we can also observe a change in institutional patterns, i.e. double-loop learning. This would refer to all states initiating the Geneva Pledge for Climate Action calling for a stronger institutional interaction between the UNFCCC and the OHCHR, among them Latin American states like Mexico, Peru and Costa Rica, small island states such as the Maldives, Kiribati and Samoa, as well as a few European countries including France, Switzerland and Ireland. Because these states actively promote human rights in the climate regime and initiate state action beyond CSO influence, we can assume that these states have engaged in *social learning*. On the basis of new local knowledge initially provided by TANs as the mediator, they are reconsidering their policy approach – and actively promote the idea that climate policies need to be rights-consistent (e.g. Stone 1999). Many of these states also supported the negotiating text that suggested human rights protection to be one of the fundamental objectives of climate action. Triple-loop learning cannot be observed yet. This would mean a change in the underlying assumptions, fundamental norms and values of the UNFCCC (Hurlbert and Gupta 2017). Its main objective, however, still is the reduction of greenhouse gas emissions and not the protection of human rights.

Another learning type that can be observed in this case is *political learning* by the teachers themselves. In the run-up of COP 21 in Paris, the HRCCWG has decided to pool resources with civil society constituencies, including indigenous peoples, women, youth and trade unions. With combined strengths of the “interconstituency alliance”, they have been successful in convincing states to institutionalize rights references in the Paris agreement. Another important learning aspect was to narrow down their demands: Whereas the HRCCWG initially advocated for framing emission reductions as a human rights obligation, they later on focused on states considering their respective rights commitments, i.e. complying to what they had already ratified in a different policy forum.



Figure two summarizes how TANs as policy teachers (and political learners) foster institutional interaction by drawing on local experiences and knowledge. An institutional policy transfer takes place; member states of the UNFCCC directly refer to their commitments made in the human rights regime. Some states have engaged in instrumental learning, whereas others are in favor of further institutionalization processes as a consequence of social learning.

**Figure 2: TANs Fostering Institutional Interaction through Commitment**



**Conclusion**

In this paper I have argued that local societal knowledge, mediated in policy lessons via TANs, can lead to policy transfer at the international governmental level and several underlying learning processes at the intersection between the human rights and the climate regime. If we revert back to the framework questions developed by Dolowitz and Marsh (2000, 8), we can summarize the following: (a) TANs are the key actors in initiating policy transfer; they are the teachers, whereas climate negotiators are the learners of policy lessons. (b) Reasons for engaging in policy transfer are adverse human rights effects of climate policies at the grassroots level. (c) The content transferred is a commitment to human rights that state representatives usually have already made – but in a different forum. (d) The degree of transfer varies; some states merely engage in instrumental learning without changing

underlying beliefs or values. Other states actively foster further institutional interaction and have therefore engaged in social learning. (e) Barriers of policy transfer are costs, historic responsibilities, the fear of imposed conditionalities and increased complexity. Facilitators are liberal-democratic state identities, strong civil society activism within respective countries but also high vulnerability to climate change impacts.

The learning process we can observe here is unique in a number of ways. *First*, it is a form of non-hierarchical multi-level learning, in which local societal experiences are transported to the international state negotiations and used to advocate for policy changes. *Second*, we learn about the politics behind the learning process, including information, symbolic, leverage and accountability politics. *Third*, state actors and IOs learn from non-state actor coalitions. TANs take the role of teachers because they comprise both, local community actors and international lawyers with expertise in lobbying and negotiation. By pooling resources in the inter-constituency alliance, they are able to teach about climate policy impacts and transform practices of national sovereignty in important decisions on institutionalizing human rights. *Fourth*, this means non-state actors foster institutional interaction through commitment. The source institutions are the core human rights conventions ratified by member states, their treaty bodies as well as the OHCHR. The target institution is the UNFCCC. The link between these policy fields is strengthened by the tactical activities of TANs.

Even though we have rights references institutionalized in the Paris Agreement, this only reflects a policy transfer in the UNFCCC. Some states have merely engaged in tactical learning fearing costs and conditionalities. Other states take a more active approach calling for stronger institutional interaction between the human rights and the climate regime demonstrating double-loop learning, which is associated with social learning. Adopting article two of the negotiating text of the Paris Agreement that declared the purpose of the new climate treaty would be the protection of human rights would have been triple-loop learning – a change in the underlying assumptions, fundamental norms and beliefs. But even though states have unanimously agreed that they need to consider respective rights obligations in climate action not all states are convinced yet that the main purpose of climate policies is to protect human rights.

After Paris, during the Bonn negotiations in 2017, the inter-constituency alliance again tried to broaden its outreach and to include more informal observer CSOs that are not organized in a constituency, such as faith-based organizations, into the so-called “coalition for rights”. This inclusive and hybrid character of the alliance can be considered a strength but, at the same

time, also constitutes a key weakness. With changing advocacy partners, objectives and strategies vary and there are disruptions in the working relationships with the state parties. Lacking continuity and consistency hamper the successes that have previously been achieved. After securing human rights in the pre-amble of the Paris Agreement, in 2017 and 2018 the focus of activity changed to advocating for a strong consideration of human rights when adopting the Paris implementation guidelines (CIEL 2018). Implementing climate action while considering, respecting and protecting human rights standards will be key in the future and the focus of transnational advocacy in the next years.

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