

# INTERNATIONAL AND NATIONAL INSTRUMENTS ON CLIMATE CHANGE AND DISASTER RISK REDUCTION: AN ANALYSIS



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# Presentation Outline

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- ❑ Introduction and background
- ❑ Climate Justice and International Legal Framework
- ❑ General principles
- ❑ States commitments
- ❑ Disaster risk reduction
- ❑ Malawi Policy Framework
- ❑ Conclusions

# Introduction and background

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- ❑ The climate change regulatory system under the United Nations Framework Convention on Climate Change including its Kyoto Protocol are firmly built on the recognition of developed country emissions responsibility and the vulnerability of developing countries. These are politically controversial premises which continue to be hotly contended in climate talks to date.
- ❑ Vulnerability and adaptation to climate change are the main concerns for developing countries; while developed countries emphasize mitigation measures
- ❑ Some disasters are caused by climate change and may be transboundary as well; hence disasters are as much a common international concern as is climate change.
- ❑ Legal and policy norms addressing climate change and disaster risk reduction have therefore developed at international level, hence the need to analyse the key principles and mechanisms and the manner in which these have or could be implemented at national level.

# Climate justice and international legal norms

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- ❑ Equity is a key component of the discourse on climate change and denotes fairness and justice taking into account those who are most affected, capacity to cope and participation in decision making; it seeks to allocate duties based on causation, responsibility and ability
- ❑ Those with the most connection to changes in climate must take most mitigation measures and also pay for the ensuing damage and measures to enable those affected to cope with impacts.
- ❑ In addition vulnerable communities that did not contribute to anthropogenic changes in the climate system must have a voice on mitigation and adaptation measures as well funding thereof.

# General principles

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- ❑ Both the UNFCCC and Kyoto Protocol allocate climate responsibility in explicit terms: see preamble and Article 3 UNFCCC. Both divide parties into Annex I (developed country) and Annex II (developing country)
- ❑ **Common but differentiated responsibility (CBDR)** seeks to promote substantive equality between developed and developing country parties and not just formal equality: Principle 7 of the Rio Declaration and Article 3.1 of the UNFCCC
- ❑ CBDR is however not accepted by some developed countries such as the US as imposing any obligation on them to own up for their historical contribution to GHG emissions.
- ❑ Nevertheless the CBDR has practical application the most obvious being Annex I countries which have quantified emissions reductions under Kyoto, financial assistance and technology transfer obligations.
- ❑ **The Polluter pays Principle** (principle 16 of the Rio Declaration) deals with internalization of environmental costs: the polluter must bear the costs of pollution.

# General Principles

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- ❑ Hence though climate change is a common concern, the polluter pays principle recognizes that developed countries contribute most to global warming and must therefore pay even for pollution they cause in other countries.
- ❑ Financial assistance and technology transfer obligations under UNFCCC, Kyoto Protocol and related conventions is a direct application of this principle and is intertwined with the CBDR principle.
- ❑ **The state responsibility** principle (Principle 2, Rio Declaration): states owe each other a duty of care to ensure that activities within their borders do not cause damage to other states.
- ❑ Although there is room for compensation for historical damage, this is rare in international law; due mainly to difficulties of international enforcement mechanisms.
- ❑ This principle is closely connected to the CBDR principle in that they both call for responsible countries to account for their actions.

# General Principles

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- ❑ **The Precautionary Principle** states that precaution must be taken to anticipate, prevent or minimise the causes of climate change.
- ❑ In particular the principle requires that where there are threats of serious or irreversible harm, lack of full scientific certainty should not be used as a reason for postponing such measures taking into account that policies and measures to deal with climate change should be cost effective to ensure global benefits at the lowest possible cost.
- ❑ **The right to sustainable development** (Article 3, UNFCCC) requires that policies and measures for protecting the climate system should be appropriate for conditions in a particular country and be integrated in national development programmes.
- ❑ It further recognizes that economic development is essential for adopting measures to address climate change; hence calls upon parties to cooperate in establishing a supportive and open international economic system.

# General principles

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- ❑ The UNFCCC further requires that measures to address climate change should not be used for arbitrary restriction or discrimination in international trade.
- ❑ Of course where measures are allowed under WTO rules they will not constitute protectionist measures.
- ❑ **Intergenerational equity** (Article 3.1): parties are required to protect the climate system for the benefit of present and future generations.
- ❑ This entails not only the need to focus on the long term development imperatives but also inter and intra generational equity as aspects of time and space.
- ❑ At international levels it requires that countries that have developed by exploiting the climate system have more responsibilities and must contribute more to reversing adverse effects of climate change than those less fortunate.

## Parties commitments

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- ❑ Technology for mitigation and adaptation to climate change are critical for developing countries. In this regard Article 4 of the UNFCCC provides for development of technology and provides for principles that require developed countries to assist developing countries.
- ❑ State commitments of parties are stipulated under Article 4 and include:
  - ✓ Development and review of national GHG inventories;
  - ✓ Development of national and or regional programmes for addressing climate change;
  - ✓ Development, diffusion and transfer of technology;
  - ✓ Promoting sustainable management and enhancement of sinks and reservoirs of all GHG not controlled by the Montreal Protocol;
  - ✓ Planning for adaptation to climate change;
  - ✓ Mainstream climate change in social, economic and environmental policies

## Parties commitments

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- ❑ The Kyoto Protocol was adopted in December 1997, under this protocol developed countries agreed to legally binding reductions in GHG emissions cuts of an average 6 to 8% below the 1990 levels between the years 2008 to 2012. the US would be required to an average 7% cut.
- ❑ There have been implementation problems as developed countries began to argue that the targets are too onerous. The US rejected the Kyoto Protocol in 2001.
- ❑ Given the difficulties of enforcing international law which almost entirely depends on state parties willingness to be bound, it has been impossible to take any tangible action for cutting GHG emissions.

# Disaster risk reduction

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- ❑ The UNCCC has specific provisions dealing with climate related disaster risk reduction.
- ❑ Article 4.1.e dealing with parties commitments calls upon state parties to cooperate in planning for adaptation actions and to develop integrated plans for coastal management, water resources and agriculture and protection and rehabilitation of areas affected by drought and desertification particularly in Africa.
- ❑ Article 4.1.f requires state parties to minimise adverse effects of climate change on the economy on public health and on quality of the environment.
- ❑ Article 4.8 provides for measures to assist development countries including funding, insurance and technology transfer targeting vulnerable members such as small island countries, low lying coastal areas, countries with areas prone to natural disasters; and those liable to drought and desertification

# Disaster risk reduction

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- ❑ The Hyogo Framework for Action: 2005 – 2015: Building Resilience of Nations and Communities is a no binding instrument adopted by the UN World Conference on Disaster Reduction held in Japan in 2005.
- ❑ The Hyogo Framework seeks to promote a strategic approach to reducing vulnerabilities and risk to hazards.
- ❑ It requires that disaster risk reduction efforts must be integrated into policies, plans and programmes for sustainable development.
- ❑ The Framework identifies the following as gaps and challenges in disaster risk reduction which provide a useful framework for developing policy responses at national level:
  - ✓ Governance: organizational, legal and policy framework;
  - ✓ Risk identification, assessment, monitoring;
  - ✓ Knowledge management and education;
  - ✓ Reducing underlying risk factors; and
  - ✓ Preparedness for effective response and recovery

# National Instruments on Climate Change and Disaster Risk Reduction

□ After the Earth Summit in Rio de Janeiro, Malawi adopted its NEAP as an operational tool for the implementation of Agenda 21, identifies and highlights several environmental problems. These include.

- ✓ high soil erosion,
- ✓ low soil fertility,
- ✓ deforestation, overgrazing,
- ✓ over-fishing, loss of biodiversity,
- ✓ water resources degradation; and
- ✓ depletion, human habitat degradation, air pollution, and climate change;

# National Environmental Policy

- A National Environmental Policy (NEP) was adopted in 1996 followed shortly thereafter by the Environment Management Act.
- Among the key strategies of the NEP are:
  - ✓ the need to strengthen the existing national climate/metrological database and monitoring networks;
  - ✓ assess and monitor the potential impact of climate change on the functioning of ecosystems, vegetation patterns and net carbon sinks;
  - ✓ use climate data to help guide land use and economic development; and
  - ✓ promote regional and international cooperation for the effective exchange of climate information and control of trans-boundary atmospheric air pollution.
- As a framework instrument the NEP is expected to guide lead agencies in agriculture, fisheries, forestry, energy, industry and water resources management in so far as their activities affect the environment and natural resources management.

# Other Policies

□ In response to the Johannesburg Plan of Action Malawi developed a National Strategy on Sustainable Development and this addresses climate change directly.

□ The NSSD seeks to:

- ✓ to reduce damage to property and loss of life caused by weather and climate natural disasters (floods, disasters etc);
- ✓ contribute to the sustainable production of food and fibre, contribute to sustainable industrial production and meet the UNFCCC obligations; and
- ✓ generate and disseminate of reliable weather and climate information for disaster early warnings, public awareness, agriculture production, industrial use and water resources management.

□ The key strategies include:

- ✓ procurement and installation of necessary equipment and training; and
- ✓ promoting awareness among vulnerable groups, among others.

# National legislation

- Many of the above policy instruments have not been incorporated into national legislation.

- However, the Disaster Preparedness and Relief Act (DPRA) (No. 24 of 1991) enacted in the wake of the Phalombe flash floods disaster provides a legal framework for disaster management;

- □ The key provisions deal with the institutional framework for managing disasters such as floods, disease, food crisis and others;

- The Act establishes the office of the Commissioner for Disaster Preparedness and Relief, a National Disaster Preparedness and Relief Committee, planning subcommittee and civil protection plans;

- In addition, the Act makes provision for organization of civil protection areas (Part VI), participation of volunteers in civil protection (Part VII), and powers of civil protection officers.

# Adaptation and coping mechanisms

- ❑ Adaptation is a process for reducing adverse effects of climate change and take advantage of the changed environment.
- ❑ These measures are intended to reduce vulnerability and increase resilience. They may relate to land use changes and/or crop and livestock management strategies.
- ❑ Coping mechanisms enable rural communities to overcome threats posed by extreme weather conditions.
- ❑ These are intended to ensure that food is available during hard months or that available resources last longer than normal.
- ❑ Government and donors have introduced disaster management programmes to enable communities cope with the situations including 'cash for work programmes', 'school feeding programmes', among others. These programmes may run the risk of creating dependency.
- ❑ The NAPA outlines the key adaptation measures which were developed in accordance with the overall government policy framework.

# Adaptation to Climate Change

- The National Adaptation Program of Action (NAPA) outlines strategic goals and objectives which include:
  - ✓ achieving food security,
  - ✓ reducing poverty,
  - ✓ attaining and maintaining positive economic growth,
  - ✓ improving the welfare of women, the elderly, children and the physically challenged, and their access to production resources,
  - ✓ addressing the special needs of orphans, and recognizing the role of women, female- and children-headed households,
  - ✓ safeguarding hydro-electric power generation, and
  - ✓ minimizing the loss of life and sustainable livelihoods owing to natural disasters and calamities, such as droughts, floods and mudslides.

# Adaptation to Climate Change

- The NAPA proposes a list of priority areas that need to be implemented. These include:
  - Improving community resilience to climate change through the development of sustainable rural livelihoods by;
    - ✓ Improving access to water, including water treatment works;
    - ✓ Improving water management to withstand erratic rains through water harvesting, water conservation, and small-scale irrigation;
    - ✓ Improving community storage systems for seed and food reserves;
    - ✓ Promoting sustainable utilization of dambos, wetlands and river valleys under sustainable dimba cultivation;
    - ✓ Diversifying crops and livestock to improve nutrition and food security;
    - ✓ Promoting low-cost nutrition supplements; and
    - ✓ Raising and improving awareness.

# Adaptation to Climate Change

- ❑ Restoring forests in the Upper, Middle and Lower Shire Valleys catchments to reduce siltation and the associated water flow problems by:
  - ✓ Creating buffers along the Shire River, and other rivers, such as the Ruo, to reduce siltation and the transfer of chemicals and other pollutants in water ways;
  - ✓ Planting fast growing tree species in catchments; and
  - ✓ Building capacity, especially training, of rural communities.
- ❑ Improving agricultural production under erratic rains and changing climatic conditions by:
  - ✓ Improving the choice of crop varieties to accommodate the increasing incidence of droughts and aridity;
  - ✓ Developing improved crop varieties and providing adequate seed;
  - ✓ Improving early warning and climate observational systems to improve extension delivery systems to the farming communities; and
  - ✓ Improving extension services to improve information flow to farmers.

# Adaptation to Climate Change

- Improving Malawi's preparedness to cope with droughts and floods by:
  - ✓ Conducting rapid assessment of drought and flood risk by producing zoning maps;
  - ✓ Designing and testing appropriate strategies, policies and laws to facilitate urgent efforts in dealing with climate disasters;
  - ✓ Preparing drought and flood preparedness plans;
  - ✓ Integrating climate change plans into land use planning;
  - ✓ Constructing and rehabilitating dams and other flood mitigation measures in key areas, including climate proof critical bridges; and
  - ✓ Building multi-purpose dams.

# Adaptation to Climate Change

- Improving climate monitoring to enhance Malawi's early warning capability and decision making and sustainable utilization of Lake Malawi and lakeshore areas resources by:
  - ✓ Enhancing the capacity of monitoring stations in terms of data collection, retrieval and distribution;
  - ✓ Building capacity;
  - ✓ Developing fish breeding facilities in Lake Malawi, rivers and fish ponds to help restock fish in the lake and rivers; and
  - ✓ Developing a fish farming enterprise.

## Key Challenges to policy Implementation: coordination and sustainability

- ❑ The planning and management of climate change and disaster management is currently carried out on a sectoral basis; and the involvement of local communities is limited;
- ❑ The resources affected by climate change are also governed by sectoral laws and policies. This sectoral separation is one of the challenges affecting adaptation because it does not facilitate a holistic response to climate change;
- ❑ The absence of an overall planning and management strategy such as land use planning, water resource management, developed with the participation of local level resource users, hampers the successful adaptation to climate change ;
- ❑ The National Decentralization Policy and the National Environmental Policy however offer opportunities for cross sector coordination.
- ❑ Many of the initiatives currently being undertaken are not integrated into the national budget and therefore depend on availability of funding from various partners. This adversely affects their sustainability and coordination with other national priorities difficult.

# Key Challenges to policy Implementation Capacity constraints

- ❑ There are capacity constraints within institutions at the central, district and local levels to coordinate climate coping strategies and sustainable land management in an integrated manner;
- ❑ A number of enabling sectoral policies that promote climate change adaptation have not been effectively implemented partly due to lack of proper procedures for translating policy prescription into field guidelines.
- ❑ Many of the existing policies are not known by local communities which are the intended beneficiaries;
- ❑ There is also limited capacity (skills and resources) at the local level to implement these policies including extension services are limited;
- ❑ Political will continues to be a challenge: in a number of respects political will is galvanized when there is an existing disaster rather than in advance planning.

## Insufficient livelihood alternatives

- ❑ The heavy dependence on natural resources to sustain livelihoods directly such as use of firewood for fuel or charcoal for cash income has resulted in over-exploitation of natural resources hence limiting available options when disaster strikes ;
- ❑ Further despite extensive feasibility studies on the potential expansion of irrigation in drought or flood prone areas such as the Shire River Basin to improve agricultural production and thus achieve food and nutrition security, extension services to promote sustainable irrigation do not exist,
- ❑ Planned investments in large-scale irrigation projects envisioned by government over the years have not been implemented as the limited resources are channelled to current 'priority areas'.

## Unreliable Seasonal Forecasts and Early Warning Systems

- ❑ The Department of Meteorological Services has in the past operated monitoring, seasonal forecasts and early warning systems in collaboration with other government institutions. These systems include:
  - ✓ Seasonal forecasting (with emphasis on drought monitoring) in collaboration with the SADC Drought Monitoring Centre (based in Harare, Zimbabwe);
  - ✓ Early warning System for Food Security, in collaboration with the Ministry of Agriculture;
  - ✓ Flood Forecasting and Warning System for the Lower Shire Valley, in collaboration with the Water Department; and
  - ✓ Tropical Cyclone Monitoring and Early Warning System, in collaboration with the Commissioner for Disaster Preparedness, Relief and Rehabilitation.
- ❑ These services have however proved unreliable for smallholder farmers who have at times been promised rain that never came or vice versa.

# Concluding Remarks

- Key climate change and DRR principles and policy measures have been debated and developed at international level which are useful for policy development at national

Malawi subscribes to and or is obliged domesticate these principles in its national policy and legislation.

- This presentation has analyzed some of these principles and policy measures.
- The presentation has also outlined the state of Malawi's policy framework and some of the challenges and constraints requiring policy intervention

