Hon. Cedric Frolick – Principles for consideration in Climate Adaptation Policy and Legislation, Beijing 4 July 2013

Introduction

As the severity of climate impacts is so strongly determined by socio-economic as well as physical variables, adaptation policies and legislation must address social as well as physical factors, and hence the reference to “improving the resilience of natural and human systems to climate impacts”. It is in this instance that we consider the policies and legislative responses for undoing the legacy of social engineering that occurred during the apartheid in South Africa critical in adaptation. In fact, the principle of equity or development with justice underlies all policy and legal frameworks that seek to redress South Africa’s past, and this flows directly from the country’s supreme law, the Constitution of the Republic of South Africa. Accordingly, the South African Constitution provides for the promotion and protection of the country’s natural environment, and the rights of citizens to access and enjoy a healthy natural environment. This is enshrined in Section 24 of the Bill of Rights which emphasises the rights:

- to an environment that is not harmful to their health or wellbeing;
- to have the environment protected for the benefit of present and future generations, through reasonable legislative and other measures that:
  - prevent pollution and ecological degradation;
  - promote conservation; and
  - secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Reinforcing this constitutional directive, are many environmental management instruments and “rights to development”, for example, pertaining to the right to adequate housing and the provision of basic services such as water, sanitation and healthcare. Section 24 of the Constitution, particularly anchored in a framework for sustainable development, thus providing South Africa with a broader policy and legislation endorsement for climate adaptation initiatives in the three spheres of Government: national, provincial and local governments.

Overarching principles
In essence, the cardinal principle for us to follow as legislators is to ensure that climate change mitigation and adaptation measures are built into the overarching framework laws of our respective countries that define sustainable development.

Secondly, it is critical to have the “latest knowledge on climate change”, as a first step, when considering adaptation measures. The role of appropriate information is particularly important for developing evidence-based adaptation policy and relevant instruments. We need information on observed climate change; future projected climate change; impacts of projected future climate change (e.g., on sectors); and on likely convergences in relationship between climate change and other factors. This kind of information is needed for short-, medium- and long-term risk management in the face of uncertainty. Thus, we should encourage our governments to focus both on what types of information are required and how this information is collected, translated into a usable form and distributed to all those who need it. The information required for planning and policy-making goes far beyond meteorological and other climate information. For example, to identify and protect the most vulnerable people and ecosystems, governments must combine climate data with demographic, economic, social and environmental information.

Thirdly, closely related to information is the matter of resources — the lifeware for effective adaptation. Making societies and ecosystems climate-resilient will require financial, human, ecological and social resources on a massive scale. We, the legislators in developing countries need to work with our respective governments to urgently build knowledge and technical ability among government officials to implement, monitor and enforce adaptation plans, policies and initiatives. Our abilities to amend budget proposals that come to our Parliaments from the Executive should come handy in this. We must actually lead the way, as legislators, in establishing our own “Climate Funds”, if we do not already have, especially as international climate funding is unlikely to meet all of our climate adaptation needs.

**Equity principles in adaptation**

Premising on our past as South Africans, it is necessary for us as legislators to nudge all policy-makers in government whether they are intending to use existing instruments (with or without amendment) for adaptation; or seeking to develop new ones for key sectors; or a comprehensive, dedicated climate adaptation legislation, they should attend to seven key principles and themes that should improve substantive outcomes for disadvantaged communities, foster inclusive and empowering participatory mechanisms, and address the deeper social and institutional forces that create and perpetuate systemic disparities. However, the choice of any climate adaptation legislation is dependent on each country and region’s prevailing circumstances, as pointed above — there is no one-size-fits-all solution to climate change challenge that countries face.
The principles for incorporation into climate adaptation policy and legislation are:

**Government has an important and leading role to play in climate adaptation at all levels.** This sense of responsibility should be captured in existing or new instruments for the purposes of adaptation. In South Africa, this responsibility is vested in the State as a constitutional directive where the State is required to protect and ensure a healthy and safe environment for every South African. Implicitly, adaptation measures should reflect this right to a healthy and safe environment.

**Design substantive adaptation measures that address vulnerability.** Adaptation policies that treat everyone the same, irrespective of underlying demographic characteristics, would result in substantial inequality, taking into account intrinsic socio-economic disparities. Equitable adaptation can be achieved only by explicitly addressing the demographics of affected populations and targeting assistance toward the most vulnerable. For example, poorer communities require assistance in preparing for hazards, fleeing disasters, finding shelter after climate-induced disasters, finding affordable housing in safe areas and having access to cooler homes or micro-environments. Climate change impacts require policymakers to re-think land use and the fate of poorer communities in the low-lying areas (e.g., of Cape Town, such as those in Gugulethu, Khayalitsha and Philippi townships), which are regularly ravaged by floods.

**Institutionalise provision of culturally-sensitive communications and services.** As climate change causes more natural disasters, effective communication is critical to warning people about impending hazards, informing them about shelter options and providing long-term recovery. This matter was thoroughly discussed at the “public hearings” held in Parliament on the South African Weather Services Amendment Bill and has since been adequately accounted for on the realisation that communication strategies are not one-size-fits-all. Legislators need to ensure that adaptation planners in government departments develop tailored strategies that address the differing needs of communities, the elderly and others detached from mainstream institutions.

**Institutionalise participatory processes to ensure that adaptation planning benefits from the inputs of affected stakeholders and hence have their support.** This is actually one of the key tenets of South Africa’s participatory democracy that of involving stakeholders who are affected and connected by a particular development initiative. Bottom-up participatory adaptation planning processes are essential to obtain community-specific information about needed adaptation measures and appropriate communication methods. They also matter to the politics of adaptation, that is, all voices need a seat at the table as critical decisions about land use and the distribution of resources and development are made.
Reduce underlying non-climate environmental stresses, such as air pollution, habitat fragmentation, competition by alien species and land degradation, increased storm water, etc, as climate change stands to exacerbate existing risks. For example, increasing temperatures will aggravate existing air pollution and increased flooding or wildfires could increase the risks already posed by facilities like sewage treatment plants, industrial facilities, or waste sites. Although reducing underlying non-climate stresses is an important adaptation principle in its own right, it has equity implications because disadvantaged communities are disproportionately exposed to these underlying environmental stresses.

Incorporate measures to mitigate mitigation, that is, address adaptation/mitigation trade-offs, as some climate mitigation strategies, like smart growth to reduce driving and the concept of compact cities, could have “maladaptive” consequences by increasing urban heat, thereby exaggerating the impacts of climate change. Similarly, certain adaptation policies that encourage the provision of air conditioning, could increase greenhouse gas emissions, and in so doing, interfering with climate mitigation strategies. Successful mitigation and adaptation will require policy-makers to carefully address the trade-offs between the two and climate adaptation legislation needs to account for this.

Tackle underlying vulnerabilities to climate change, considering the fact that climate impacts will strike unequally because of underlying socio-economic vulnerabilities. Successful adaptation requires addressing such pervasive issues as poverty, affordable housing, the provision of healthcare and the political voice of marginalised communities. In fact, the South African National Climate Change Response Policy White Paper identifies these sectors as adaptation priorities in South Africa that Parliament annually assesses to ensure that this “priority policy allocation” is effectively reflected on the ground.

Conclusion

Adaptation to the impacts of climate change should be far more popular to us, as politicians, in developing countries, and hence should be given a top priority. It is truly beneficial to invest in adaptation, particularly in terms of its advantage to improve the resilience of the poor to withstand the impacts of climate change. Bolstering the capacity of the poor who constitute the bulk of our constituencies is actually in the best interest of our constituency work. Adaptation has the potential to reduce adverse impacts of climate change, enhance beneficial impacts and reduce vulnerabilities of communities and systems. It should therefore be viewed as a necessary strategy at all levels to complement climate change mitigation efforts. Implicitly, adaptation to climate change should be mainstreamed or integrated into policy-making, budgeting, implementation and monitoring processes at national, sector and sub-national levels. This should be a multi-year, multi-stakeholder effort where legislators play a pivotal role, taking into account their multifaceted role.