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1 Introduction

NHRIs' unique position as central independent state actors in the promotion and protection of human rights at the national level and as bridges between the national and international protection of human rights makes them essential participants in an all-of-society effort to address the human rights consequences of climate change and climate action.

This Practical Guidance aims to provide information about how international human rights mechanisms have addressed the relationship between climate change and human rights; provide information about how GANHRI members can engage with human rights and other international mechanisms on climate change; and provide a mechanism for members to share their experiences with climate action.

1.1 NHRIs and Human Rights

At the 2020 GANHRI Annual Conference, NHRIs from all regions pledged to work individually and collectively to promote human-rights-based climate action. The conference statement – [Climate Change: The Role of National Human Rights Institutions](#) – sets out some of the practical ways that NHRIs can work for climate justice.¹

At the national level, NHRIs can:

- Report to and advise government and other stakeholders on a human-rights-based approach to climate mitigation and adaptation measures;
- Promote sound policy measures related to climate change and the environment;
- Promote and monitor environmental, social and human rights risk and impact assessments prior to the start of projects;
- Advocate for climate action policies that integrate the expertise of local communities and traditional knowledge of indigenous peoples;
- Include climate change and environmental perspectives in the investigation of complaints and base advocacy and policy advice on the findings;
- Support individuals who are negatively impacted by climate change or mitigation measures to have an effective access to remedy; and
- Advocate protection for environmental human rights defenders, who can face various forms of violence and prosecution.

At the international level, NHRIs can:

- Play a 'bridging' role to support the exchange of information between policymakers, civil society and other stakeholders, including groups most affected by climate change
- Engage in national, regional and international processes to promote human-rights-based action on climate change, including in relation to nationally determined contributions (NDCs) under the Paris Agreement.

It is for each NHRI to determine how its work is relevant to climate action. There is no one size fits all answer given substantial differences among NHRIs and their circumstances. Moreover, some NHRIs have been working on issues related to climate change for many years; some show no sign of working on issues related to climate change any time soon; and many others lie somewhere in between. It is important that NHRIs share their experience as peers to increase their common understanding of why and how climate change is relevant to the promotion and protection of human rights.

At a general level, in countries in all regions, the response to the climate emergency² must be an all-of-society endeavour. It is clearly established that climate change

¹ <https://ganhri.org/outcome-statement-nhris-and-climate-change/>

² Statement by Michelle Bachelet, UN High Commissioner for Human Rights, 48th session of the Human Rights Council, Item 2, 13 September 2021 at <https://reliefweb.int/report/world/environmental-crisis-high-commissioner-calls-leadership-human-rights-council-member>

prejudices the enjoyment of a wide range of rights, such as the rights to life, water and sanitation, food, health, housing, equality and non-discrimination, self-determination, culture, development and a clean, healthy and sustainable environment in many locations.³ As global warming and climate change advance they will prejudice the realisation of rights in more ways in more places. Reports of the Inter-government Panel on Climate Change portray clearly the harmful social and economic effects of climate change, and it takes little imagination to extrapolate from there to the impact of climate change on human rights.⁴ NHRIs' unique position as central independent state actors in the promotion and protection of human rights at the national level and as bridges between the national and international protection of human rights makes them essential participants in an all-of-society effort to address the human rights consequences of climate change and climate action.⁵

GANHRI is committed to supporting NHRIs worldwide to make progress on these commitments, individually and collectively.⁶ A central element of that commitment is the establishment of the NHRI Caucus on Human Rights and Climate Change to facilitate the exchange of knowledge, experiences and good practices among NHRIs across all regions.⁷

This *Practical Guidance* aims at offering something to the widest possible range of national human rights institutions. It is premised on the recognition that while consistency with the Paris Principles is their common attribute, national human rights institutions differ greatly in their mandates, size, resources and operating environment. There are many kinds of activities that GANHRI members collectively can take in their work on climate action and human rights, even if few members will engage in all

³ Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights, A/HRC/10/61, 15 January 2009. At <https://undocs.org/en/A/HRC/10/61> See also: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/31/52, 1 February 2016, paras. 23-30 at <https://undocs.org/A/HRC/31/52>. Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/74/161, 15 July 2019, paras. 26-51 at <https://undocs.org/A/74/161>

⁴ IPCC, Working Group II, Climate Change 2022: Impacts, Adaptation and Vulnerability – Summary for Policymakers, 28 February 2022, at: https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf, See also: IPCC, Special Report: Global Warming of 1.5 °C, 2018 at <https://www.ipcc.ch/sr15/chapter/chapter-4/>. One could also listen to the victims of slow and sudden onset natural disasters caused or amplified by climate change, or one could read David Wallace Wells, *The Uninhabitable Earth: A Story of the Future*, Allen Lane, 2019.

⁵ Even in those countries where NHRIs focus primarily on non-discrimination, they have a crucial role to play as climate change has differentiated effects according to gender, socio-economic status, age and many other criteria. One aspect of differentiated effect that demands more attention from a human rights perspective is the difference between how climate change affects will effect today's children and future generations. See: Neubauer, et al. v. Germany, German Federal Constitutional Court, 24 March 2021, paras. 4 and 182-195 at http://climatecasechart.com/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2021/20210429_11817_judgment-1.pdf

⁶ GANHRI, Climate change and human rights at <https://ganhri.org/climate-change-and-hr/>. See also Strategic Plan 2020-2022, at https://ganhri.org/wp-content/uploads/2020/12/GANHRI_Strategic-Framework_final.pdf.

⁷ <https://ganhri.org/ganhri-and-climate-change/>

activities.^{8,9} Examples of NHRI engagement on climate change are provided in chapter [10], Annex II of this *Practical Guidance*, and it is foreseeable that the number and kinds of examples will expand as NHRIs engage further on climate action.

Even if some NHRIs have been attentive to climate action for many years, most NHRIs' work on climate change is in its early stages. Due to the growing urgency of the climate emergency and the unique position of NHRIs, NHRIs need to urgently bolster their capacity to deal with climate change and its impacts by meaningfully engaging with climate law and policy making and its implementation, by contributing to hold state and private actors to scrutiny for their action on climate change, and by helping to ensure that measures to mitigate and adapt to climate change respect applicable human rights standards.

This *Practical Guidance* seeks to facilitate access to knowledge and tools to help them engage in these activities. It is conceived of as a living document that will evolve to reflect developments in climate action and, more importantly, relevant NHRI experience. It should be a tool for GANHRI and its Climate Caucus to develop a community of climate action practice among GANHRI's members that contributes to mutual awareness-raising, knowledge-sharing and capacity-building activities on climate action.

1.2 Approaches to Climate Action

There are two principal objectives for NHRIs' engagement on climate action.

To encourage governments and businesses to mitigate greenhouse gas emissions and adapt to the effects of climate change.

To ensure that mitigation and adaptation measures are consistent with human rights.

In most respects NHRI work on climate action¹⁰ will rely on practices and procedures applied to dealing with other human rights issues. Even the cross-border aspects of

⁸ Mandated activities of NHRIs can include: Monitoring; reporting (national and international); investigation of complaints; support of individuals or communities seeking remedies; litigation; research and analysis; policy development; technical advice to government, business and others; educating and raising awareness; dialogue facilitation; advocacy (national and international); human rights impact assessment; and implementation of legislation.

⁹ In chapter 5 of their 2020 Handbook *Climate Change and Human Rights: The Contributions of National Human Rights Institutions*, the German Institute for Human Rights and the Center for International Environmental Law provide a wide range of examples of how NHRIs have engaged on climate change to date at: <https://www.institut-fuer-menschenrechte.de/publikationen/detail/climate-change-and-human-rights#> or <https://www.ciel.org/reports/climate-change-and-human-rights-the-contributions-of-national-human-rights-institutions/>.

¹⁰ There is no single common definition of climate action. For the purposes of this *Practical Guidance*, it is intended to cover efforts to reduce greenhouse gas emissions, strengthen adaptive capacity and resilience to

climate change are not unique: migration, human trafficking and aspects of business responsibility for human rights are among other human rights issues with a cross-border character. Where climate change differs is in the science of the issue and the magnitude and urgency of the existential threat that it poses to humanity and human rights everywhere. Tried and tested approaches to promoting and protecting human rights can be applied to climate action; new approaches will also be needed – for instance to engage with UNFCCC bodies and processes.

Where governments and businesses fail to mitigate¹¹ or adapt¹² to climate change or to repair loss and damage caused by climate change, or fail to do so adequately, human rights can be invoked as a means of encouraging them to act. NHRIs have a role to play in encouraging governments and businesses to act, in influencing how they act, and in holding governments and businesses accountable for fulfilling the commitments that they make to act.

Another role for NHRIs in climate action¹³ is in working to ensure that where governments and business do act, their mitigation and adaptation measures respect applicable human rights obligations and standards. Successfully meeting the challenge of limiting the global temperature increase to 1.5 degrees Celsius above pre-industrial levels (or even well below 2 degrees Celsius)¹⁴ before it is too late will require economic, social and cultural transformations unprecedented in their speed and scope.¹⁵ In such circumstances, it is foreseeable that human rights will occasionally be violated unless serious sustained attention is given to ensuring the consistency of transformational measures with human rights.¹⁶ The relatively limited

adapt to the effects of anthropogenic climate-change and remedy loss and damage caused by anthropogenic climate change.

¹¹ The Intergovernmental Panel on Climate Change defines mitigation as: A human intervention to reduce emissions or enhance the sinks of greenhouse gases. Glossary for the Synthesis Report IPCC Fifth Assessment Report at: https://www.ipcc.ch/site/assets/uploads/2019/01/SYRAR5-Glossary_en.pdf.

¹² The IPCC defines adaptation as: The process of adjustment to actual or expected climate and its effects. In human systems, adaptation seeks to moderate or avoid harm or exploit beneficial opportunities. In some natural systems, human intervention may facilitate adjustment to expected climate and its effects. Idem

¹³ Define climate action for the purposes of this *Practical Guidance*. "Climate Action is SDG Goal 13.

¹⁴ Paris Agreement, article 2.

¹⁵ IPCC, Special Report: Global Warming of 1.5 °C, 2018, Chapter 4: Strengthening and Implementing the Global Response, p. 317. <https://www.ipcc.ch/sr15/chapter/chapter-4/>

The speed of transitions and of technological change required to limit warming to 1.5°C above pre-industrial levels has been observed in the past within specific sectors and technologies. But the geographical and economic scales at which the required rates of change in the energy, land, urban, infrastructure and industrial systems would need to take place are larger and have no documented historic precedent [...]. To reduce inequality and alleviate poverty, such transformations would require more planning and stronger institutions (including inclusive markets) than observed in the past, as well as stronger coordination and disruptive innovation across actors and scales of governance.

¹⁶ Although the IPCC Working Group II report Summary for Policymakers published on 28 February 2022 includes only one express mention of human rights, its analysis in connection with avoiding maladaptation and climate resilient development highlights the relevance of human rights standards and processes. That analysis speaks repeatedly in terms of equity and justice. Climate justice is defined as comprising justice that links development and human rights to achieve a rights-based approach to addressing climate change. IPCC, Working Group II, Climate Change 2022: Impacts, Adaptation and Vulnerability – Summary for Policymakers,

experience to date with mitigation and adaptation already provides examples of negative consequences where measures were taken without sufficient attention to the human rights of affected parties.¹⁷

NHRIs have an important contribution to make to efforts to ensure that climate change mitigation and adaptation measures respect human rights norms and standards. The most effective measures will be preventive and avoid violations thorough measures such as inclusive informed public consultations about proposed measures and human rights impact assessments.¹⁸ Where climate change mitigation or adaptation measures fail to respect the human rights of affected parties, NHRIs have roles to play in receiving complaints, investigating, reporting and promoting dispute resolution and remedies – just as in other instances of human rights violations. Human rights provide a universally established framework that can contribute to the legitimacy, acceptance and popular support for changes required by climate action.¹⁹

Partnerships and outreach will be essential to NHRI effectiveness in connection with climate action. This could involve assisting already convinced partners in applying an effective human-rights-based approach to climate action²⁰ or convincing other partners and potential partners to take a human-rights-based approach to climate action. Human rights education offered by NHRIs should address climate action, but NHRIs should also endeavour to ensure that climate change education²¹ also addresses human rights.

In their work on climate action, NHRIs will strike a balance between their work at the national level and at the international level, regionally and globally. In a world of sovereign states, most changes need to take place at the national level, but as a global

28 February 2022, at: https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf. Note in particular footnote 14 at page 6 which defines climate justice.

¹⁷For example: European Center for Constitutional and Human Rights, Wind park in Mexico: French firm disregards indigenous rights at <https://www.ecchr.eu/en/case/wind-park-in-mexico-french-firm-disregards-indigenous-rights/>; Licence for wind power development on Fosen ruled invalid as the construction interferes with Sami reindeer herders' right to enjoy their own culture, Supreme Court judgment 11 October 2021, HR-2021-1975-S (case no. 20-143891SIV-HRET, case no. 20-143892-SIV-HRET and case no. 20-143893SIV-HRET) at: <https://www.domstol.no/en/enkelt-domstol/supremecourt/rulings/2021/supreme-court---civil-cases/hr-2021-1975-s/>; The Report of the High Level Independent Fact-Finding Mission to Embobut Forest in Elgeyo Marakwet County at: <https://www.knchr.org/portals/0/group/rightsreports/KNCHR-Fact-Finding-Mission-to-Embobut-Forest.pdf>. One might argue that the failure of the French government to take account of procedural human rights in making its decision to increase fuel taxes in 2018 contributed to the gilets jaunes backlash.

¹⁸ See the discussion of procedural human rights at heading 5.1 below at page 65. For human rights impact assessment and due diligence, see below at page 69.

¹⁹ Since its second annual resolution on human rights and climate change in 2009, the Human Rights Council has stressed:

that human rights obligations, standards and principles have the potential to inform and strengthen international, regional and national policymaking in the area of climate change, thereby promoting policy coherence, legitimacy and sustainable outcomes. (Resolution 47/24)

²⁰ For a discussion of human rights -based approaches, see heading 5.2 below at page 67. Cross reference to longer discussion elsewhere.

²¹ See Paris Agreement, articles 11(1) and 12, which address education and public awareness of climate change.

challenge, climate action also requires pursuit of the highest possible international standards, robust commitments and effective cooperation. As with many other human rights issues, there will be a two-way relationship between national and international efforts. National experience can inform international standard setting and processes, directly in international fora or indirectly by influencing the positions that national governments take into international fora. Remedies to national challenges can be pursued in UN and regional fora and international standards, processes and decisions can be used to drive change at the national level.

The bodies and processes addressed in this *Practical Guidance* offer many opportunities for NHRIs to use their national experience to support international climate actions and to draw on international efforts to guide climate action within their own country. Striking the right balance between outward-focussed international engagement and inward-focussed national engagement raises, once again, the challenge of how NHRIs can most effectively allocate their limited resources and what they require to make optimal decisions. Decisions will also be required about how and when to collectively, whether through GANHRI or the regional NHRI bodies, or in coalitions with other NHRIs. The Caucus on Human Rights and Climate Change has an important role to play in this regard.

Many NHRI actions related to climate change will be like their activities related to other more “classic” human rights challenges. Defence of environmental defenders is not fundamentally different from the defence of other human rights defenders. Engagement with UN human rights mechanisms on climate change will be like engagement with them on other human rights issues. NHRI engagement on climate action does not require an approach that is fundamentally different from what NHRIs already do. In work on the 2030 Agenda for Sustainable Development, including the High-Level Political Forum, NHRIs work in promoting human rights through the Sustainable Development Goals (SDGs) has given them experience that they can apply to climate change. For instance, the connections and synergies between human rights and the SDGs will be relevant to the just transitions required by climate action, and the connections and synergies between human rights and climate action could be developed in support of the realisation of the SDGs.

The importance of science to climate action will require additional basic specialised knowledge. This *Practical Guidance* will suggest some initial training opportunities and sources to acquire that knowledge. However, NHRIs do not need to become repositories of knowledge about climate change. Through partnerships with government agencies, intergovernmental organisations, civil society organisations, academia and business, they can combine their human rights expertise with the expertise of others in joint efforts.

1.3 The format of this *Practical Guidance*

The climate emergency requires a response with commensurate vigour and urgency. Rapid economic, social, political, cultural and technical changes must take place to meet the challenges of climate change, and the response of the response of the human rights community will need to evolve rapidly. NHRIs will apply novel practices

and approaches²² and learning from experience will be continuous. This *Practical Guidance* aspires to be a living instrument that can evolve to reflect developments in efforts to meet the challenges of climate change and the evolving practice and diverse experiences of GANHRI's members. This calls for a format that allows the *Practical Guidance* to be regularly updated. [That is why a web-paced format has been chosen for the *Practical Guidance*.]

2 United Nations Mechanisms

2.1 Introduction

NHRIs already cooperate extensively with UN human rights bodies and expert mechanisms in a variety of ways directly and through GANHRI. This includes by making statements to the Human Rights Council and its subsidiary bodies, in submissions to the UPR and participation in the adoption of UPR outcomes, and by making submissions to the treaty bodies and special procedures. NHRIs also advise on, promote and monitor the implementation of recommendations and other outcomes of the human rights mechanisms. All these methods of engagement and others can be applied in connection with climate action. NHRIs should examine their existing practices and assess how they could be applied to work on climate change. NHRIs can also draw on the work of the UN human rights bodies and mechanisms for analysis and interpretations of universal human rights law for their own work at the national level and in their international advocacy in connection with climate action, just as they do on other issues.

2.2 Engaging with UN Human Rights Mechanisms

2.2.1 Human Rights Council

At its June session, the Human Rights Council adopts a resolution on climate change, which usually calls for the Secretary-General to prepare a report for which inputs are invited.

Opportunities for NHRI engagement with the Human Rights Council include through the delivery of statements in general debates, interventions in inter-active dialogues, participation in panel discussions, submission of written statements, organization of or participation in parallel events and general advocacy, like that carried out in connection with the Human Rights Council's recent recognition of the right to a clean, healthy and sustainable environment.²³

²² For example the national inquiry on climate change undertaken by the Philippines Commission on Human Rights. See <https://chr.gov.ph/nicc-2/>.

²³ Information note for National Human Rights Institutions, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NHRIParticipation.aspx>

Since 2008, the Human Rights Council has adopted an annual resolution on Human rights and climate change.²⁴ The most recent resolution is [A/HRC/RES/47/24](#) adopted on 14 July 2021. The recent practice is for the [annual](#) resolution to be introduced at the June session and to call on the Secretary-General to prepare a report on a specific theme related to climate change for discussion at a panel discussion at the following June session of the Council one year after the session at which the resolution is adopted. The report requested of the Secretary-General in resolution 47/24 is on the adverse impact of climate change on the full and effective enjoyment of human rights of people in vulnerable situations. The Office of the High Commissioner for Human Rights, which prepares the report, [invites](#) inputs to the report from stakeholders, including national human rights institutions.

The Council has also addressed the issue of the impact of climate change in the context of its work on human rights and the environment. An annual resolution on human rights and the environment is presented biennially at every second March session of the Council. The resolution on human rights and the environment should next be proposed at the fifty-second session of the Human Rights Council in March 2023.²⁵ The Special Rapporteur on human rights and the environment reports annually to the Council at the March session. The mandate of the Special Rapporteurs comes up for renewal at the Council's fifty-fifth session in March 2024.

Good examples of NHRI engagement with Council processes are the role played by NHRIs at the national level and GANHRI in the creation of the [Special Rapporteur](#) on the promotion and protection of human rights in the context of climate change and the recognition of the [right to a clean, healthy and sustainable environment](#) at the Council's 48th session in October 2021. in resolution.

As described in greater detail at heading 2.2.4, other Special rapporteurs occasionally address climate change in their reports, but their reporting on the topic is irregular.

²⁴ Human Rights Council resolutions on human rights and climate change, <https://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/Resolutions.aspx>

²⁵ With the recognition of the right to a clean, healthy and sustainable environment in HRC resolution A/HRC/RES/48/13, it is foreseeable that the periodicity of the resolution on human rights and the environment will change.

2.2.2 Universal Periodic Review

In the UPR, many recommendations related to climate change have been made. They are searchable through the Universal Human Rights Index.

The UPR creates many opportunities to engage at the national level.

The Universal Periodic Review (UPR) of the Human Rights Council involves a periodic review of the human rights records of all 193 United Nations Member States.²⁶ The UPR is increasingly addressing the links between climate change and human rights. Between 2008 and October 2021, States had made approximately 250 recommendations explicitly mentioning climate change. Additional recommendations were made on matters related to climate change, such as disaster risk reduction and displacement. Nauru, Kiribati, the United States of America, Samoa and Tuvalu received the largest number of climate change-related recommendations during the first two UPR cycles. The Maldives, the Philippines, Haiti, Sierra Leone and Bangladesh were the States that made most climate-related recommendations during the first two cycles. The third UPR cycle will conclude in February 2022, and the fourth cycle will begin in October 2022. The order in which states will be reviewed will be the same as in preceding cycles.²⁷

OHCHR's Universal Human Rights Index (UHRI)²⁸ is a searchable database that facilitates access to human rights recommendations made in the UPR.²⁹ Users can produce overviews of recommendations by region, country, human rights themes, concerned groups and by Sustainable Development Goals (SDGs) and targets. They can also perform text searches and advanced searches by using filters. As of October 2021, there were 287 recommendations related to climate change available in 90 documents accessible through the UHRI database.

The NGO [UPR Info](#) also offers a fully searchable online database for UPR recommendations and States' voluntary pledges made throughout all three cycles of the Universal Periodic Review.³⁰ Information in the database is accessible through UPR Info's analytical categories—Regional Group, International Organization, [Response to Recommendations](#), Thematic Issues, and [Type of Action](#). The information is available in English and French (starting from session 29th session of

²⁶ Detailed information about the UPR s available at:

<https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

²⁷ <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CyclesUPR.aspx>

²⁸ <https://uhri.ohchr.org/en/>

²⁹ UHRI also includes concluding observation of the UN human rights treaty bodies and recommendations of the Special Procedures.

³⁰ <https://upr-info-database.uwazi.io/>. A video demonstration of how to use the database is available at <https://www.youtube.com/watch?v=fDQp6GJSptE>.

the UPR Working Group). The UPR Info database yields 248 recommendations including the phrase “climate change” for the period to October 2021.³¹

OHCHR, in collaboration with GANHRI, has prepared online guides to facilitate use of the UPR. These include:

- Universal Periodic Review: Tips for Engagement at Country Level for National Human Rights Institutions and Civil Society³²
- UPR NHRI Mid-term reports³³
- Maximizing the Use of the Universal Periodic Review at Country Level: Practical Guidance³⁴

In addition, the Northern Ireland Human Rights Commission and the Commonwealth Forum of National Human Rights Institutions have prepared a guide to the UPR specifically for NHRIs.

- NIHRC and CFNHRI, The Universal Periodic Reporting Process: A Guide for National Human Rights Institutions, September 2016³⁵

2.2.3 Advisory Committee

The Human Rights Council Advisory Committee was established to function as a think-tank for the Council and work at its direction.³⁶ It is composed of eighteen independent experts who are elected by the Council. The Advisory Committee meets twice a year, for one week in February immediately before the March session of the Council and for one week in August.

The Advisory Committee has not yet reported on climate change, because it can only report at the request of the Council, and until the adoption of resolution [A/HRC/RES/48/14](#), the Council had not asked the Advisory Committee to report on climate change. In resolution 48/14, the Council asked the Committee to conduct a study and prepare a report on the impact of new technologies for climate protection on the enjoyment of human rights, and to submit the report to the Council at its fifty-fourth session in September 2023. The Committee started consideration of the issue at its 27th session,³⁷ by establishing a drafting group and a related programme of work. It decided to request stakeholders to submit information for the report by 29 April 2022 and allowed for the possibility of the drafting group convening an intersessional seminar on the impact of new technologies for climate protection on the enjoyment of

³¹ The difference between the results yielded by the UHRI and the UPRInfo database suggests that it might be advisable to search both databases to obtain the most complete search results possible.

³² <https://ganhri.org/universal-periodic-review-tips/>

³³ <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPR-NHRIs-Mid-term-reports.aspx>

³⁴ https://www.ohchr.org/Documents/HRBodies/UPR/UPR_Practical_Guidance.pdf

³⁵ <http://training.nihrc.org/upr> The Guide is also available at: https://www.upr-info.org/sites/default/files/general-document/pdf/nihrc_an_nhri_approach_to_the_upr_process.pdf

³⁶ <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx> OHCHR has published an information booklet about the Advisory Committee, which is available at: https://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/AdvisoryCommitteebooklet_E.pdf

³⁷ <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session27/Pages/Index.aspx>

human rights before the Advisory Committee's twenty-eighth session.³⁸ NHRIs are specifically mentioned among the stakeholders.

2.2.4 Special Procedures

At its 48th session the Human Rights Council created a Special Rapporteur on human rights and climate change, who will report to the Council's 50th session in June 2022 and to the UN General Assembly in September 2022.

Numerous thematic Special Procedures have reported on a wide range of issues related to climate change.

The Framework principles on human rights and the environment are an essential reference document for work on climate change and other environmental issues.

The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.³⁹ They are either an individual expert (called "Special Rapporteur" or "Independent Expert") or a working group composed of five members, one from each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western and others group.⁴⁰ The Special Rapporteurs, Independent Experts and members of the Working Groups are appointed by the Human Rights Council and serve in their personal capacities. The thematic mandates are normally renewed every three years; country mandates usually come up for renewal annually. A mandate-holder's tenure is limited to a maximum of six years.

The Special Procedures:

- prepare thematic studies,
- undertake country visits,
- act on individual cases of alleged violations and concerns of a broader, structural nature by sending communications to States and occasionally to non-State actors,

³⁸ Human Rights Council Advisory Committee concludes its 27th session, 25 February 2022 at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28161&LangID=E>

³⁹ <https://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

⁴⁰ Detailed information about the Special Procedures and their activities can be found in the annual report about the Special Procedures presented by the Secretariat to the Human Rights Council at its March session. See: Report on the activities of special rapporteurs, independent experts and working groups of the special procedures of the Human Rights Council in 2020, including updated information on special procedures, Report of the Secretariat, A/HRC/46/61, 15 March 2021 at: <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Pages/ListReports.aspx> and Facts and figures with regard to the special procedures in 2020, A/HRC/46/61/Add.1 15 March 2021 at: <https://undocs.org/A/HRC/46/61/Add.1>

- convene expert consultations to contribute to the development of international human rights standards and guidelines,
- participate in expert consultations, seminars and conferences,
- participate in panel discussions during the sessions of the Human Rights Council,
- organize and participate in parallel events during the sessions of the Human Rights Council,
- engage in advocacy and raise public awareness about specific human rights situations and phenomena through public statements and other forms of engagement, and
- provide advice for technical cooperation.

They report annually to the Human Rights Council according to a calendar that allocates the reports of specific mandates to specific sessions.⁴¹ The majority of Special Procedures also report annually to the General Assembly.

Special Procedures are supported by the Office of the United Nations High Commissioner for Human Rights. Many also receive support from academic institutions with which they are associated.

2.2.4.1 Special Procedures' Work on Climate Change

Many thematic Special Procedures have addressed climate change.⁴² The extent to which country-specific Special Procedures have done so is not clear as the Universal Human Rights Index searchable database does not cover the country-specific mandates.⁴³

An important recent development in the Special Procedures was the Human Rights Council's decision to create a **Special Rapporteur on the promotion and protection of human rights in the context of climate change** in resolution A/HRC/RES/48/14 adopted on 8 October 2021.⁴⁴ The mandate-holder was appointed at the forty-ninth session of the Human Rights Council in March 2022. He is to report annually to the Council, starting at its fiftieth session in June 2022, and to the General Assembly, starting at its seventy-seventh session in September 2022. Based on past practice, it can be expected that the Special Rapporteur on climate change will report annually at the June session of the Council.

⁴¹ An easily accessible list of which mandates report at each of the three Council sessions each year can be found in the introduction to the Voluntary Yearly Calendar for Thematic Resolutions of the Human Rights Council at: <https://hrcmeetings.ohchr.org/Pages/Voluntaryyearlycalendarforthematicresolutions.aspx>

⁴² A non-exhaustive list of special procedures reports relevant to climate change can be found at: https://www.ohchr.org/Documents/HRBodies/SP/List_SP_Reports_Climate_Change.pdf, and <https://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/HumanRightsMechanisms.aspx>. Also see below. In addition, a list of Special Procedures reports addressing SDG 13 on Climate Action can be found at: <https://www.ohchr.org/Documents/HRBodies/SP/SDG13.pdf>.

⁴³ Similarly, there is no easy way to assess the extent to which the Human Rights Council's International Commissions of Inquiry, Commissions on Human Rights, Fact-Finding missions and other Investigations have addressed climate change.

⁴⁴ <https://undocs.org/A/HRC/RES/48/14>

The Special Rapporteur on climate change has a very broad mandate:

- (a) To study and identify how the adverse effects of climate change, including sudden and slow onset disasters, affect the full and effective enjoyment of human rights and make recommendations on how to address and prevent these adverse effects, in particular ways to strengthen the integration of human rights concerns into policymaking, legislation and plans addressing climate change;
- (b) To identify existing challenges, including financial challenges, in States' efforts to promote and protect human rights while addressing the adverse effects of climate change, and make recommendations regarding respect for, and promotion of, human rights, including in the context of the design and implementation of mitigation and adaptation policies, practices, investments and other projects;
- (c) To synthesize knowledge, including indigenous and local traditional knowledge, and identify good practices, strategies and policies that address how human rights are integrated into climate change policies and how these efforts contribute to the promotion and protection of all human rights and poverty alleviation;
- (d) To promote and exchange views on lessons learned and best practices related to the adoption of human rights-based, gender-responsive, age-sensitive, disability-inclusive and risk-informed approaches to climate change adaptation and mitigation policies, with a view to contributing to the achievement of the Paris Agreement and the United Nations Framework Convention on Climate Change, which could help in the realization of the Sustainable Development Goals, in particular Goals 13 and 14, to address the economic, cultural, environmental and social challenges that climate change poses for the full enjoyment of human rights for all and in particular to support the resilience and adaptive capacities of people in vulnerable situations to respond to the adverse impact of climate change;
- (e) To raise awareness on the human rights affected by climate change, especially of persons living in developing countries particularly vulnerable to climate change, such as least developed countries, small island developing States and landlocked developing States, and encourage increased global cooperation in this regard;
- (f) To seek views and contributions from States and other relevant stakeholders, including international organizations, United Nations institutions, agencies, funds and programmes, regional economic commissions, international and regional financial institutions, regional human rights mechanisms, **national human rights institutions**,⁴⁵ civil society, children and young people, older persons, indigenous peoples, local communities, women's rights organizations, organizations of persons with disabilities, peasants and other people working in rural areas, academia, scientific institutions and non-

⁴⁵ Emphasis added.

governmental organizations, in the discharge of the mandate and develop a regular dialogue and consultation on measures at the domestic and international levels on effective and sustainable climate action that respects, promotes and protects human rights;

(g) To facilitate and contribute to the exchange of technical assistance, capacity-building and international cooperation in support of national efforts, actions and measures to address the adverse impact of climate change on the enjoyment of human rights, in collaboration with Governments, international organizations, civil society, the technical and academic communities, the private sector and all relevant stakeholders, including by using new and emerging digital technologies;

(h) To work in close coordination, while avoiding duplication of efforts, with the Office of the United Nations High Commissioner for Human Rights, other special procedures and other human rights mechanisms of the Human Rights Council, the treaty bodies and other relevant United Nations agencies, funds and programmes, including those related to climate change and the environment;

(i) To conduct country visits and to respond promptly to invitations from States;

(j) To participate in, and contribute to, a human rights perspective to relevant international conferences and events with the aim of promoting a systematic and coherent approach to issues pertaining to the mandate;

(k) To integrate a gender-responsive, age-sensitive, disability inclusive and social-inclusion perspective throughout the work of the mandate;

(l) To work closely with States and relevant stakeholders, including business enterprises, both transnational and others, to adopt a human rights perspective in accordance with the Guiding Principles on Business and Human Rights to mitigate potential adverse effects of their activities, including investment projects, on human rights in the context of climate change;

(m) To closely coordinate with the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes and the Special Rapporteur on the human rights to safe drinking water and sanitation and to consider every possibility to coordinate his or her work with these mandate holders in the most effective way, including through joint undertakings.

In addition, other thematic Special Procedures have written many reports focussed on climate change, and many more of their reports touch on issues of climate change. Among the reports that address climate change, one finds reports of the:

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment⁴⁶

Climate change, A/HRC/31/52 ⁴⁷

Safe climate, A/74/161 ⁴⁸

Framework principles on human rights and the environment, A/HRC/37/59 ⁴⁹

The [Framework principles on human rights and the environment](#) are an essential reference document for human rights work on climate change and other environmental issues.

Special Rapporteur on the right to food

Impact of climate change on the right to food, A/70/287 ⁵⁰

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice, A/76/222 ⁵¹

Special Rapporteur on the right to adequate housing

Climate change and the right to adequate housing, A/64/255 ⁵²

Special Rapporteur on the situation of human rights defenders

Environmental human rights defenders, A/71/281⁵³

Special Rapporteur on the rights of indigenous peoples

Impacts of climate change and climate finance on indigenous peoples' rights, A/HRC/36/46 ⁵⁴

Special Rapporteur on the Human Rights of Internally Displaced Persons

Internal displacement in the context of the slow-onset adverse effects of climate change, A/75/207 ⁵⁵

Climate change and internal displacement, A/66/285 ⁵⁶

⁴⁶ <http://srenvironment.org/> and

<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

⁴⁷ <https://undocs.org/A/HRC/31/52>

⁴⁸ <https://undocs.org/A/74/161>

⁴⁹ <https://undocs.org/en/A/HRC/37/59>

⁵⁰ <https://undocs.org/A/70/287>

⁵¹ <https://undocs.org/A/76/222>

⁵² <https://undocs.org/A/64/255>

⁵³ <https://undocs.org/A/71/281>

⁵⁴ <https://undocs.org/A/HRC/36/46>

⁵⁵ <https://www.undocs.org/A/75/207>

⁵⁶ <https://www.undocs.org/A/66/285>

Climate change and displacement, A/64/214 ⁵⁷

Independent Expert on human rights and international solidarity

Report on international solidarity and climate change, A/HRC/44/44 ⁵⁸

Special Rapporteur on the human rights of migrants

Climate change and migration, A/67/299 ⁵⁹

Working Group of Experts on People of African Descent

Environmental justice, the climate crisis and people of African descent, A/HRC/48/78 ⁶⁰

Special Rapporteur on extreme poverty and human rights

Climate change and poverty, A/HRC/41/39 ⁶¹

Special Rapporteur on the human rights to safe drinking water and sanitation

Climate Change and the Human Rights to Water and Sanitation: Position paper (2010) ⁶²

2.2.4.2 NHRI Engagement with the Special Procedures

NHRIs can draw on the work of the Special Procedures for information and analysis relevant to their own work on climate change.

The Universal Human Rights Index⁶³ searchable database facilitates access to recommendations issued by the Special Procedures. Users of the database can produce overviews of recommendations by region, country, human rights themes, concerned groups and by Sustainable Development Goals (SDGs) and targets, as well as perform text searches and advanced searches by using filters.⁶⁴

Just as NHRIs have engaged with the Special Procedures on other issues, they can engage with them on climate change across the full range of Special Procedures' activities.

The mandate of the Special Rapporteur on climate change specifically calls on the mandate-holder to seek views and contributions national human rights institutions in

⁵⁷ <https://www.undocs.org/A/64/214>

⁵⁸ <https://undocs.org/A/HRC/44/44>

⁵⁹ <https://www.undocs.org/A/67/299>

⁶⁰ <https://undocs.org/A/HRC/48/78>

⁶¹ <https://undocs.org/A/HRC/41/39>

⁶² https://www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf

⁶³ OHCHR's Universal Human Rights Index (UHRI) <https://uhri.ohchr.org/en/>

⁶⁴ As of mid-October 2021, there were 166 recommendations related to climate change in 35 documents from 14 Special Procedures accessible through the UHRI database. However, bear in mind that the UHRI does not cover the country-specific Special Procedures, and the work of all Special Procedures who have addressed climate change is not fully reflected search results obtained through the database.

the discharge of the mandate and to develop a regular dialogue and consultation on measures at the domestic and international levels on effective and sustainable climate action that respects, promotes and protects human rights.

Information about working with the Special Procedures can be found in chapter 7 of *Working with the United Nations Human Rights Programme A Handbook for Civil Society*.⁶⁵ Information about submitting communications to the Special Procedures is available online on the OHCHR website,⁶⁶ and communications can be submitted online as well.⁶⁷ Information about communications submitted to the Special Procedures related to climate change can be obtained through an online searchable database.⁶⁸

Special Procedure mandate-holders usually solicit input in connection with thematic studies, country visits and the development of standards and guidelines. Information about many calls for input and comments are posted online on the OHCHR website.⁶⁹ Information about the themes to be addressed by thematic Special Procedures in their upcoming reports is also available online,⁷⁰ as is information about upcoming and pending Special Procedure country visits.⁷¹

⁶⁵ Working with the United Nations Human Rights Programme A Handbook for Civil Society, New York and Geneva, 2008 at https://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

⁶⁶ https://www.ohchr.org/Documents/HRBodies/SP/SPP_PresentationFlyer.pdf
https://www.ohchr.org/Documents/HRBodies/SP/SPP_PresentationFlyer_FR.pdf
https://www.ohchr.org/Documents/HRBodies/SP/SPP_PresentationFlyer_SP.pdf
https://www.ohchr.org/Documents/HRBodies/SP/SPP_PresentationFlyer_AR.pdf
<https://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>

⁶⁷ Online submission tool for communications to special procedures at <https://spsubmission.ohchr.org/en>

⁶⁸ <https://spcommreports.ohchr.org/>. A search for “climate change” brings up six communications. For an example, see:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25381>

⁶⁹ <https://www.ohchr.org/EN/Pages/calls-for-input.aspx>

⁷⁰ <https://www.ohchr.org/EN/HRBodies/SP/Pages/Consultations-calls-for-input-reports.aspx>

⁷¹ <https://spinternet.ohchr.org/Home.aspx?lang=en>

2.2.5 Treaty Bodies

Treaty Bodies have delivered numerous concluding observations related to climate change, adopted General Comments addressing climate change and started to consider communications related to climate change.

The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties.⁷² NHRIs have a long history of engaging with the treaty bodies; and there are many opportunities for them to use the treaty bodies to raise concerns about climate change and human rights. There are also opportunities for NHRIs to contribute to the treaty bodies' development of soft law on human rights and climate change.⁷³

An overview of NHRIs' general engagement with treaty bodies is provided in:

Engagement of NHRIs with the UN Human Rights Treaty Bodies: An Overview of Procedures and Practices, Informal background paper by the Secretariat, May 2016⁷⁴

Cooperation between NHRIs and the treaty bodies was further addressed in an information note prepared by the OHCHR Secretariat for a discussion by the Chairs of the human rights treaty bodies at their twenty-ninth meeting about a common treaty body approach to engagement with national human rights institutions.⁷⁵

The treaty bodies are also a source of information about the application of human rights law to climate change, which can be used in policy analysis and advocacy. Many treaty bodies have addressed climate change and human rights in statements, decisions, concluding observations, general comments and general recommendations, and views on communications. This body of work provides guidelines for the interpretation and application of State party obligations deriving from the UN human rights treaties in relation to climate action and constitutes part of the

⁷² <https://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

⁷³ Monitoring States' Compliance with their Human Rights Obligations, in the Context of Climate Change, https://www.ciel.org/wp-content/uploads/2020/02/BriefingNote_LeveragingHRTBs_2.pdf
Monitoring States' Compliance with their Human Rights Obligations, in the Context of Climate Change
Guidance on the Preparation of a Parallel Report to a UN Human Rights Treaty Body on
the topic of climate change and human rights, https://www.ciel.org/wp-content/uploads/2020/02/Template_LeveragingHRTBs_Climate_2.pdf

⁷⁴

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCHAIRPERSON%2fINF%2f28%2f24738&Lang=en

⁷⁵ Common approach to engagement with national human rights institutions, Note by the Secretariat, HRI/MC/2017/3, 9 June 2017 at: <https://undocs.org/HRI/MC/2017/3>

evolving international human rights legal framework that is increasingly addressing climate change.⁷⁶

2.2.5.1 Concluding Observations

Many treaty bodies have addressed aspects of climate change in their concluding observations following examination of state party reports. OHCHR's Universal Human Rights Index (UHRI) searchable online database⁷⁷ facilitates access to the concluding observations of the Treaty Bodies. Searches can be done to produce overviews of recommendations by region, country, human rights themes, concerned groups and by Sustainable Development Goals (SDGs) and targets, as well as perform text searches and advanced searches by using filters. As of 31 October 2021, there were 208 recommendations in 106 documents from six treaty bodies (CESCR, CRC, CEDAW, HRC, CERD, and CPRD) accessible through the UHRI database. The database is not searchable for communications jurisprudence or general comments.

2.2.5.2 General Comments

A general comment⁷⁸ is a treaty body's interpretation of provisions of the treaty it monitors or thematic issues. Issues related to climate change have been addressed by the following treaty bodies in general comments.

The Human Rights Committee

[General comment No. 36](#) (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 3 September 2019, para. 62.

The Committee on Economic, Social and Cultural Rights

[General Comment No. 15](#) (2002) on the right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003, para. 28.

The Committee on Economic, Social and Cultural Rights is developing a general comment on land and economic, social and cultural rights. The purpose of the general comment is to clarify the specific obligations of States parties relating to land and the

⁷⁶ *States' Human Rights Obligations in the Context of Climate Change – 2020 Update*, <https://www.ciel.org/reports/states-human-rights-obligations-in-the-context-of-climate-change-2020-update-march-2020/>

States' Human Rights Obligations in the Context of Climate Change — 2019 Update, <https://www.ciel.org/wp-content/uploads/2019/03/HRTB-Feb.-2019-update-2019-03-25.pdf>

States' Human Rights Obligations in the Context of Climate Change: <https://www.ciel.org/reports/states-human-rights-obligations-context-climate-change/>

This Synthesis Note provides an overview of States' obligations under the different human rights instruments in the context of climate change, focusing on the authoritative guidance provided by the human rights treaty bodies in 2018.

⁷⁷ <https://uhri.ohchr.org/en/>

⁷⁸ The Committees on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women use the term "general recommendation" in place of general comment.

governance of tenure of land under the International Covenant on Economic, Social and Cultural Rights.⁷⁹ The draft general comment includes a passage on and numerous references to climate change. The Committee is also at an earlier stage in developing a general comment on Sustainable Development and the International Covenant on Economic, Social and Cultural Rights, which will also address climate change.⁸⁰

The Committee on the Elimination of Discrimination against Women

[General Recommendation No. 37](#) (2018) on gender-related dimensions of disaster risk reduction in the context of climate change. CEDAW/C/GC/37, 7 February 2018.

General recommendation No. 34 (2016) on the rights of rural women, CEDAW/C/GC/34, 7 March 2016, paras. 10 and 12.⁸¹

General recommendation No. 27 (2010) on older women and protection of their human rights, CEDAW/C/GC/27, 16 December 2010, paras. 25 and 35.⁸²

The Committee on the Rights of the Child

[General comment No. 15](#) (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24), CRC/C/GC/15, 17 April 2013, paras. 5 and 50.

General comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, 6 December 2016, paras 2 and 12.⁸³

In June 2021, the Committee on the Rights of the Child decided to prepare a new general comment on children's rights and the environment with a special focus on climate change.⁸⁴ The Committee plans for the General Comment are explained in a concept note,⁸⁵ and the Committee has announced that it will seek input from interested parties.

2.2.5.3 Individual Complaints (or Communications)

Any individual who claims that his or her rights under the treaty have been violated by a State party to that treaty may bring a communication before the relevant committee,

⁷⁹ <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-draft-GC-land.aspx>

⁸⁰ <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCR-GC-Sustainable-Development.aspx>

⁸¹

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/34&Lang=en

⁸² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/53/PDF/G1047253.pdf?OpenElement>

⁸³

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=5&DocTypeID=11

⁸⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27139&LangID=E>

⁸⁵ https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRC_GC26_concept_note.aspx

provided that the State has recognized the competence of the committee to receive such complaints and that domestic remedies have been exhausted. Currently, eight of the human rights treaty bodies⁸⁶ may receive and consider individual complaints or communications from individuals.

A small number of complaints have been brought asserting human rights violations related to climate change.

Human Rights Committee (ICCPR Optional Protocol)

Merits decision adopted by the Human Rights Committee in the case [Teitiota v. New Zealand](#) involving a climate refugee from Kiribati seeking asylum in New Zealand

Ioane Teitiota, a national of Kiribati, claimed that by removing him to Kiribati, New Zealand violated his right to life under the International Covenant on Civil and Political Rights. He claimed that the effects of climate change and sea level rise forced him to migrate from Kiribati to New Zealand. The Committee found that Teitiota did not establish that he faced an imminent, or likely, risk of arbitrary deprivation of life upon return to Kiribati. Nonetheless, the Committee recalled that environmental degradation, climate change, and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. While the facts did not establish a violation of Teitiota's right to life, the Committee did not exclude the possibility that environmental degradation could result in a violation of the right to life.

The Human Rights Committee also has a case pending in which the petitioners allege that Australia is violating their human rights under the International Covenant on Civil and Political Rights (ICCPR) due to the government's failure to address climate change.⁸⁷

Pending Torres Strait Islanders case registered in 2019 as case 3624/2019

Committee on the Rights of the Child (Optional Protocol)

Admissibility decisions adopted by the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on a

⁸⁶ CCPR, CERD, CAT, CEDAW, CRPD, CED, CESCR and CRC

⁸⁷ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-of-torres-strait-islanders-to-the-united-nations-human-rights-committee-alleging-violations-stemming-from-australias-inaction-on-climate-change/>

communications procedure in respect of Communication No. 104/2019,⁸⁸ 105/2019,⁸⁹ 106/2019,⁹⁰ 107/2019⁹¹ and 108/2019.⁹²

In connection with the decisions in these five communications, involving Argentina, Brazil, France, Germany and Turkey, the Committee of the Rights of the Child issued a public letter to the authors of the complaint to explain the decisions. Although the Committee decided that in each case the human rights violations complained of were within the jurisdiction of the State party, it determined that it could not consider the complaints because in each State party, the complainants had not exhausted local remedies as required by the Optional Protocol to the Convention on the Rights of the Child, and the complaints did not fall within the narrow exceptions to that rule.⁹³

The jurisprudence of the treaty bodies can be searched in OHCHR's Jurisprudence database at <https://juris.ohchr.org/en/Home/Index/>.

As of 31 October 2021 the only result yielded by a search for climate change was the decision of the Human Rights Committee in [Teitiota v. New Zealand](#).

The Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities may accept information and documentation submitted by third parties which may be relevant for the proper determination of a particular complaint. The Committee on the Rights of the Child has established guidelines on third-party interventions under the Optional Protocol to the CRC.⁹⁴

2.2.5.4 Public Statements

On 8 October 2018, the Committee on Economic, Social and Cultural Rights issued a public statement on "Climate Change and the International Covenant on Economic, Social and Cultural Rights". It covered the human rights implications of climate change, the related human rights duties of States, the contribution of human rights mechanisms and the role of the Committee on Economic, Social and Cultural Rights.⁹⁵

⁸⁸ Argentina

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/ARG/CRC_C_88_D_104_2019_33020_S.pdf

⁸⁹ Brazil

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/BRA/CRC_C_88_D_105_2019_33021_E.pdf

⁹⁰ France

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/FRA/CRC_C_88_D_106_2019_33022_F.pdf

⁹¹ Germany

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/DEU/CRC_C_88_D_107_2019_33023_E.pdf

⁹² Turkey

https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/TUR/CRC_C_88_D_108_2019_33024_E.pdf

⁹³ https://www.ohchr.org/Documents/HRBodies/CRC/Open_letter_on_climate_change.pdf. On the issue of jurisdiction, the Committee followed the reasoning adopted by the Inter-American Court of Human Rights in its Advisory Opinion Oc-23/17 of November 15, 2017, which is described below at footnote [291].

⁹⁴ <https://www.ohchr.org/Documents/HRBodies/CRC/GuidelinesTPI.pdf>

⁹⁵ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23691&LangID=E>

On 16 September 2019, Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities issued a detailed [Joint Statement on "Human Rights and Climate Change"](#) prior to the United Nations Climate Action Summit on 23 September 2019.⁹⁶

2.2.6 General Assembly

As national human rights institutions do not yet have participatory rights in the UN General Assembly (UNGA) comparable to those that they have in the Human Rights Council, UNGA offers little direct opportunity for NHRI advocacy or contribution to the development of soft law. The debates and outcomes of UNGA offer limited guidance for NHRI work on climate change and human rights. Reports of Special Procedures presented to UNGA's Third Committee occasionally address climate change. However, there is no Third Committee resolution on climate change. Since 1988, UNGA has regularly adopted a resolution on *Protection of global climate for present and future generations of humankind* initially discussed in the Second Committee. The 2020 iteration of the resolution, A/RES/75/217⁹⁷ makes no mention of human rights. Occasional high-level discussions of climate change take place at the General Assembly, but they have not had a human-rights focus.⁹⁸

2.2.7 Expert Mechanism on the Rights of Indigenous Peoples (EMRIP)

The Expert Mechanism provides the Human Rights Council with expertise and advice on the rights of Indigenous Peoples. It assists Member States in achieving the goals of the United Nations Declaration on the Rights of Indigenous Peoples.⁹⁹

The Expert Mechanism conducts studies to advance the promotion and protection of Indigenous Peoples' rights by:

- clarifying the implications of key principles, such as self-determination and free, prior and informed consent;
- examining good practices and challenges in a broad array of areas pertaining to Indigenous Peoples' rights; and
- suggesting measures that States and others can adopt at the level of laws, policies and programmes.

⁹⁶ <https://www.un.org/en/climatechange/2019-climate-action-summit>

⁹⁷ <https://undocs.org/en/A/RES/75/217>,

⁹⁸ For example: **Delivering Climate Action: for People, Planet, and Prosperity**, 26 October 2021 at:

https://www.un.org/pga/76/event/deliver_climate_action/

Climate Ambition Summit 2020, 12 December 2020 at <https://www.climateambitions Summit2020.org/>;

High-Level Climate Change RoundTable, 24 September 2020, <https://www.un.org/en/climatechange/high-level-climate-change-roundtable>; 2019 Climate Action Summit, 23 September 2019,

<https://www.un.org/en/climatechange/2019-climate-action-summit>

⁹⁹ <https://www.ohchr.org/EN/Issues/IPeoples/EMRIP/Pages/EMRIPIndex.aspx>

In 2014, the EMRIP's annual thematic report to the Human Rights Council (HRC), dealt addressed climate change extensively.

Promotion and protection of the rights of indigenous peoples in disaster risk reduction, prevention and preparedness initiatives, A/HRC/27/66, 7 August 2014¹⁰⁰

2.2.8 United Nations Permanent Forum on Indigenous Issues

The Permanent Forum on Indigenous Issues considered climate change at its 7th session in 2008, and many of its members have prepared studies on climate change and indigenous rights.

The United Nations Permanent Forum on Indigenous Issues (UNPFII) is a high- level advisory body to the Economic and Social Council. The Forum was established on 28 July 2000 by resolution 2000/22, with the mandate to deal with indigenous issues related to economic and social development, culture, [the environment](#), education, health and [human rights](#).¹⁰¹

More specifically, the Permanent Forum:

- provides expert advice and recommendations on indigenous issues to the Council, as well as to programmes, funds and agencies of the United Nations, through ECOSOC;
- raises awareness and promotes the integration and coordination of activities related to indigenous issues within the UN system;
- prepares and disseminates information on indigenous issues;
- promotes respect for and full application of the provisions of the UN Declaration on the Rights of Indigenous Peoples and follow up the effectiveness of this Declaration (Art. 42 UNDRIP).

The seventh session of the UNPFII in 2008 was devoted to climate change, bio-cultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges.¹⁰²

Members of the UNPFII have prepared the following studies on climate change and indigenous rights:

¹⁰⁰ <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session27/Pages/ListReports.aspx>

¹⁰¹ <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2.html> See also: DESA, United Nations Permanent Forum on Indigenous Issues, Backgrounder: Climate change and indigenous peoples, 2008 at: https://www.un.org/esa/socdev/unpfii/documents/backgrounder%20climate%20change_FINAL.pdf

¹⁰² <https://www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/seventh-session-of-the-unpfii.html>

Study on indigenous peoples and climate change by Hindou Oumarou Ibrahim, [E/C.19/2021/5](#)

Study on the relationship between indigenous peoples and the Pacific Ocean, taking into account issues of governance, the effects of climate change, deep sea mining, resources and sustainable development by Valmaine Toki, [E/C.19/2016/3](#)

Study on the Impacts of land use change and climate change on indigenous reindeer herders' livelihoods and land management, including culturally adjusted criteria for indigenous land uses by Anna Naykanchina, [E/C.19/2012/4](#)

Study on the impact of climate change adaptation and mitigation measures on reindeer herding by Lars-Anders Baer, [E/C.19/2010/15](#)

Study on the Extent to which Climate Change Policies and Projects Adhere to the Standards set forth in the UN Declaration on the Rights of Indigenous Peoples by Hassan Id Balkassm, Paimaneh Hasteh, [E/C.19/2010/7](#)

Impact of Climate Change Mitigation Measures on Indigenous Peoples and on Their Territories and Lands by Victoria Tauli-Corpuz and Aqqaluk Lyngé, [E/C.19/2008/10](#)

The Secretariat for the UNPFII is located in the UN Department of Economic and Social Affairs in New York.

2.3 United Nations Commission on the Status of Women (CSW)

At its 66th session, the Commission on the Status of Women will consider achieving gender equality and the empowerment of women and girls in the context of climate change, environmental and disaster risk reduction and policies.

In accordance with its 2021- 2024 multi-year programme of work, the 66th session of the Commission on the Status of Women (CSW) in March 2022 will consider “Achieving gender equality and the empowerment of all women and girls in the context of climate change, environmental and disaster risk reduction policies and programmes” as its priority theme.¹⁰³ To take stock of current research and practice and assist the Commission in its deliberations, UN-Women convened a virtual Expert Group Meeting (EGM) on that theme from 11 – 14 October 2021.¹⁰⁴ The EGM took stock of current research, prepared an analysis of policies and practices and made recommendations on advancing gender equality through holistic and integrated climate change, environment and disaster risk reduction strategies and initiatives that uphold rights, build resilience, and foster lasting green recovery. The EGM assessed the interlinkages of the gender dimensions of the applicable climate, environment and disaster risk reduction normative frameworks, including the United Nations Framework

¹⁰³ <https://www.unwomen.org/en/csw/csw66-2022>

¹⁰⁴ <https://www.unwomen.org/en/csw/csw66-2022/preparations/expert-group-meeting>

Convention on Climate Change, and their synergies with the 2030 Agenda and Sustainable Development Goals (SDGs). The outcome of the EGM was a report, containing a summary of the discussion and recommendations directed at Member States and other stakeholders, to be made available at the 66th session of the Commission on the Status of Women and on the website of UN-Women.¹⁰⁵

2.4 2030 Agenda for Sustainable Development

The Mérida Declaration on the Role of National Human Rights Institutions in implementing the 2030 Agenda for Sustainable Development “encourage[s] ICC Regional Networks and individual NHRIs, [...] to consider the practical functions they can assume to contribute to a human-rights-based approach to implementation of the [2030 Sustainable Development] Agenda.”¹⁰⁶

Information about the Sustainable Development Goals and its related processes is available at: <https://sdgs.un.org/>

Goal 13 of the 2030 Agenda for Sustainable Development calls for urgent action to combat climate change and its impacts, and it establishes five targets.¹⁰⁷

13.1 Strengthen resilience and adaptive capacity to climate-related hazards and natural disasters in all countries;

13.2 Integrate climate change measures into national policies, strategies and planning;

13.3 Improve education, awareness-raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning;

13.a Implement the commitment undertaken by developed-country parties to the United Nations Framework Convention on Climate Change to a goal of mobilizing jointly \$100 billion annually by 2020 from all sources to address the needs of developing countries in the context of meaningful mitigation actions and transparency on implementation and fully operationalize the Green Climate Fund through its capitalization as soon as possible; and

13.b Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries and small island developing States, including focusing on women, youth and local and marginalized communities.

Many other Sustainable Development Goals and their targets also relevant to climate change or a just transition. The UN Climate Change Secretariat has suggested that “[p]ursuing climate action and sustainable development in an integrated and coherent way offers the strongest approach to enable countries to achieve their objectives

¹⁰⁵ https://www.unwomen.org/sites/default/files/2021-12/CSW66%20EGM%20report_final.pdf

¹⁰⁶ <https://ganhri.org/wp-content/uploads/2020/01/Merida-Declaration-FINAL.pdf>

¹⁰⁷ <https://sdgs.un.org/topics/climate-change>

efficiently and quickly under the Paris Agreement and the 2030 Agenda for Sustainable Development”.¹⁰⁸ However, little appears to have been done recently to pursue this this.

The on-line NDC-SDG Connections database describes in detail linkages and synergies between the SDGs and Nationally Determined Contributions at a global and a national level. It aims to promote more effective and ambitious national action to implement the 2030 Agenda on Sustainable Development and the Paris Agreement on the basis of analysis and comparison of how climate actions formulated in Nationally Determined Contributions (NDCs) correspond to each of the 17 Sustainable Development Goals (SDGs).¹⁰⁹ Together *The Human Rights Guide to the Sustainable Development Goals*¹¹⁰ of the Danish Institute for Human Rights and the NDC-SDG Connections database provide tools for drawing connections between state’s human rights obligations and their NDC commitments.

As part of its follow-up and review mechanisms, the 2030 Agenda encourages UN member states to “conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven”.¹¹¹ These national reviews are expected to serve as a basis for the regular reviews by the High-Level Political Forum (HLPF). Regular reviews by the HLPF are to be voluntary, state-led and be undertaken by both developed and developing countries.¹¹² Unfortunately, the High-Level Political Platform does not offer the opportunity for NHRIs to submit shadow reports to inform the review of State under the Voluntary National Review (VNR) process, which means that efforts to influence VNRs must take place primarily at the national level in connection with the preparation of national reports for the VNR.¹¹³ GANHRI has developed an *SDGs & Human Rights Toolbox* to enhance the

¹⁰⁸ <https://unfccc.int/topics/action-on-climate-and-sdgs/action-on-climate-and-sdgs>

¹⁰⁹ <https://klimalog.die-gdi.de/ndc-sdg/> (last accessed 12 November 2021). As of the end of March 2021, the NDC-SDG Connections tool has been updated with all NDCs updated up to early 2020. The authors aim to update the database to cover commitments in more recent NDCs. The rationale and ambition behind NDC-SDG Connections is explained in *The Case for Connecting the Implementation of the Paris Climate Agreement and the 2030 Agenda for Sustainable Development* at: https://www.die-gdi.de/uploads/media/BP_21.2017.pdf and the methodology for extracting the data is explained at: <https://klimalog.die-gdi.de/ndc-sdg/assets/downloads/How%20did%20we%20do%20this%20-%20NDC%20SDG%20Connections.pdf>. Detailed country-specific information about what is covered in NDCs is available in the NDC Explorer at <https://klimalog.die-gdi.de/ndc/#NDCExplorer/worldMap?NDC??income???catIncome>. Information provided there included mentions of stakeholder consultation in NDC preparation, fairness and equity, gender and human rights.

¹¹⁰ <https://www.humanrights.dk/tools/human-rights-guide-sustainable-development-goals> For example for the human rights standards related to SDG13 on climate action, see https://sdg.humanrights.dk/en/targets2?combine_1=xxx&goal=1146&target=&instrument=All&title_1=&field_country_tid=All&field_instrument_group_tid=All&combine=. See also the DIHR’s searchable online SDG – Human Rights Data Explorer, which links the recommendations of UN human rights mechanisms to the SDGs, at: <https://sdgdata.humanrights.dk/en>.

¹¹¹ UN General Assembly resolution A/RES/70/1, para. 79 at <https://undocs.org/A/RES/70/1>.

¹¹² Idem, para. 84.

¹¹³ For example, Northern Ireland Human Rights Commission, Submission to Voluntary National Review of the United Kingdom of Great Britain and Northern Ireland on progress in meeting the Sustainable Development Goals, June 2019 at: https://nihrc.org/uploads/publications/NIHRC_Shadow_Report_to_UK_VNR-FINAL.pdf. The Danish Institute for Human Rights and GANHRI have published *Engaging with the Voluntary National Review of 2030 Agenda Progress to Promote Human Rights: A Guide for National Human Rights Institutions* at:

capacity of NHRIs to contribute to the implementation, monitoring and review of the SDGs. The Toolbox compiles training materials, reports, databases and other resources from relevant organizations, covering a wide range of thematic areas and issues of pertinence to specific regions and stakeholders.¹¹⁴

The 2021 edition of the DESA Handbook for the Preparation of Voluntary National Reviews (VNR) calls on States to consult a wide range of stakeholders in the preparation of their VNRs, and national human rights institutions are expressly named among the stakeholders as a direct result of advocacy by GANHRI.¹¹⁵

Voluntary National Reviews and other inputs to the High-level Political Forum on Sustainable Development could provide material for use in climate action advocacy. They are posted online¹¹⁶ and are searchable by key word and by year.

3 United Nations Framework Convention on Climate Change

The United Nations Framework Convention on Climate Change (UNFCCC)¹¹⁷ and its related agreements, the Kyoto Protocol¹¹⁸ and the Paris Agreement,¹¹⁹ have created a complex web of subsidiary [bodies and processes](#) to address many diverse aspects of climate change and climate action. The eleventh preambular paragraph to the Paris Agreement¹²⁰ recognises that its Parties should respect, promote and consider human rights when taking action to address climate change, but human rights are certainly not at the centre of UNFCCC processes. Efforts to insert human rights in the implementation guidelines for the Paris Agreement (the Paris Rulebook) have had limited success up to and including the 2021 26th Conference of the Parties COP 26. Nonetheless, there are entry points for raising human rights concerns in some UNFCCC processes at the national and international levels. The UNFCCC processes can be used to pursue human rights nationally, and national efforts can be used for human rights advocacy internationally.

It needs to be remembered that if not used strategically, the complex UNFCCC processes also lend themselves, like many UN processes, to activity with little practical effect. For NHRIs to make best use of the UNFCCC processes will require insight, imagination and focus. While at the international level, the UNFCCC processes offer entry points for human rights advocacy and opportunities for networking and relationship-building, the main channels to bring human rights to bear in the

https://www.humanrights.dk/sites/humanrights.dk/files/media/document/ENGuideNHRIEngagementWithVNRs_0.pdf

¹¹⁴ <https://ganhri.org/sdgs-toolbox/>

¹¹⁵ https://sustainabledevelopment.un.org/content/documents/27024Handbook_2021_EN.pdf

¹¹⁶ <https://sustainabledevelopment.un.org/inputs/>

¹¹⁷ <https://unfccc.int/process-and-meetings/the-convention/what-is-the-united-nations-framework-convention-on-climate-change>

¹¹⁸ https://unfccc.int/kyoto_protocol

¹¹⁹ <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

¹²⁰ *Acknowledging* that climate change is a common concern of humankind, 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 situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity .

implementation of the Paris Agreement and the UNFCCC will probably be at the national level, principally through work aimed at influencing the positions of national governments. If NHRIs, working domestically and across countries with civil society, academia, business and other stakeholders can bring their respective national governments to take human rights into account in the fulfilment of their UNFCCC and Paris Agreement undertakings and obligations, they can contribute to breathing life into the eleventh preambular paragraph of the Paris Agreement.

There are at least four avenues for NHRI engagement with UNFCCC processes:

- as UNFCCC observers (or on delegations attached to observers);
- through formal submissions to UNFCCC processes;
- through participation in UNFCCC processes as experts; and
- through engagement with national governments and others at the national level in connection with UNFCCC processes.

3.1 Observer status

Organizations must be admitted by the UNFCCC Conference of the Parties (COP) as observers to the UNFCCC process before they can send representatives to attend any meetings of the UNFCCC principal and constituted bodies. Admission as observer an organization to the UNFCCC is a one-off decision and does not need to be repeated once observer status has been granted.¹²¹ Observers must register their representatives to attend a session or meeting of a UNFCCC body. The registration process for admitted observers is explained on the web pages for [admitted IGOs](#)¹²² and [admitted NGOs](#),¹²³ respectively. Representatives of some NHRIs have been accredited to UNFCCC meetings as members of national governmental delegations or NGO delegations.

The criteria for accreditation as an observer are set out in article 7(6) of the UNFCCC.

"The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. **Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention**, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the

¹²¹ How to obtain observer status at <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/non-party-stakeholders/overview/how-to-obtain-observer-status>. See also UNFCCC standard admission process for non-governmental organizations (NGOs) at https://unfccc.int/files/parties_and_observers/observer_organizations/application/pdf/unfccc_standard_admission_process_ngos.pdf

¹²² <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/non-party-stakeholders/admitted-igos>

¹²³ <https://unfccc.int/process-and-meetings/conferences/side-events-and-exhibits/admitted-ngos>

rules of procedure adopted by the Conference of the Parties.”¹²⁴ (Emphasis added.)

Guidance for the application of this provision was developed by the UNFCCC Secretariat and approved by the Subsidiary Body for Implementation.¹²⁵ While that guidance does not specifically address national human rights institutions, it appears broad enough to allow for the accreditation of GANHRI, regional networks and individual NHRIs.

8. In order to facilitate the implementation of Article 7, paragraph 6, working procedures have had to be developed. Mindful of the Convention, and drawing on general United Nations practice, the secretariat has developed procedures for the admission of IGOs and NGOs as observer organizations. These procedures are publicly available on the secretariat web site, and state that intending observer organizations shall provide, inter alia:

- (a) A statement of competence in Convention matters
- (b) Confirmation of independent juridical personality
- (c) Confirmation of non-profit and/or tax-exempt status in a State member of the United Nations, or of one of its specialized agencies or of the International Atomic Energy Agency, or in a State Party to the International Court of Justice.

10. The secretariat wishes to draw to the attention of the SBI a number of issues relating to the procedures for admission of observer organizations. For example:

- (b) Organizations which have been established by, and report to, governments and carry out government-mandated activities, but which cannot provide evidence of independence from government, are not considered eligible for admission. They are encouraged to participate as part of government delegations[.]¹²⁶

As the admission of observers requires the consideration of the Conference of the Parties, it is done on an annual basis. The receipt of applications for COP27 was closed on 31 August 2021. Applications for observer status starting with the COP 28 review cycle closes on 31 August 2022.

In addition to being entitled to attend UNFCCC meetings, observers receive requests from UNFCCC bodies for written input, called submissions, and information on various other issues.

¹²⁴ United Nations Framework Convention on Climate Change, article 7(6). Considering preambular paragraph 11 of the Paris Agreement, human rights in connection with action to address climate change is credibly a matter covered by the UNFCCC.

¹²⁵ Promoting effective participation in the Convention process, FCCC/SBI/2004/5, 16 April 2004 at: <https://unfccc.int/sites/default/files/resource/docs/2004/sbi/05.pdf>. A single process is used for the admission of observer organizations to sessions of the COP, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol⁴ and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

¹²⁶ Idem.

3.2 Submissions

UNFCCC subsidiary and constituted bodies regularly request written submissions of information and views from non-Party stakeholders, including admitted non-governmental organizations, and their submissions are made available on the UNFCCC secretariat website.¹²⁷ The UNFCCC Parties have also invited presiding officers of the subsidiary and constituted bodies to make greater use of inputs by non-Party stakeholders (NPS) through submissions.

Calls for submissions and statement are posted on the publicly accessible UNFCCC Submission and Statement portal.¹²⁸ The rules for submissions by organisations with observer status and by non-Party stakeholders without observer status are set out as follows at a different location on the UNFCCC website.¹²⁹

For organizations with observer status, the Submission and Statement Portal provides a platform to upload submissions and statements. Before the first upload, an account must be created by the observer organization's Designated Contact Point.¹³⁰

Non-Party stakeholders without observer status can make submissions in response to specific calls for submissions. However, such entities cannot use the Submission Portal for uploading their statements. Non-Party stakeholders without observer status are invited to send their submissions to the UNFCCC secretariat by email to submission-info@unfccc.int. Received submissions will go through a clearing process and cleared submissions will then be published in the Submission and Statement Portal.

3.3 Participation as Experts

Some UNFCCC processes envisage expert and other contributions. For instance, the rules of procedure for the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI) provide that in performing its mandate, the KCI should draw upon outside expertise at its meetings. Its Co-Chairs may, in consultation with the Committee, invite representatives of international organizations, the private sector, academia and/or civil society to participate in a KCI meeting as expert advisers on specific issues under consideration at the meeting.¹³¹ ¹³² The

¹²⁷ According to the UNFCCC website, submissions and statements can be accessed easily through filters and a search function, which includes searching the documents' content. [Check this on 23 Nov I was unable to successfully carry out a word search for human rights.] <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/non-party-stakeholders/submissions/submission-portal>

¹²⁸ <https://www4.unfccc.int/sites/submissionsstaging/Pages/Home.aspx>

¹²⁹ <https://unfccc.int/process-and-meetings/parties-non-party-stakeholders/non-party-stakeholders/submissions/submission-portal#eq-2>

¹³⁰ Instructions for posting submissions are provided in the *UNFCCC Submission and Statement Portal user manual for observer organizations* at https://unfccc.int/sites/default/files/resource/spp_user_manual_for_observer_organizations_1.pdf.

¹³¹ Matters relating to the forum on the impact of the implementation of response measures, Revised rules of procedure of the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, Draft decision -CMP.16, Annex II, paras. 40-41.

¹³² For information about the KCI, see <https://unfccc.int/process-and-meetings/bodies/constituted-bodies/KCI>.

workplan of Paris Committee on Capacity-building for 2021-2024 envisages that the Committee will engage with various stakeholders in undertaking its work, including through inviting observers to meetings and opening working groups to the participation of external experts.

3.4 Engagement at the National Level

States party to the UNFCCC, the Kyoto Protocol and the Paris Agreement are the principal actors in the UNFCCC bodies and process. This points to the importance of influencing national government positions in and contributions to those bodies and processes.¹³³ In addition, NHRIs can seek to hold their national governments accountable for respecting climate change commitments made in UNFCCC bodies and processes and use UNFCCC outcomes to encourage domestic climate action by their national government.¹³⁴

3.5 UNFCCC Bodies

There are many UNFCCC supreme, subsidiary and constituted bodies and related processes.¹³⁵ While human rights have not had a large place in them to date, some address human rights issues, broadly defined, and a few offer opportunities to raise human rights issues. Some processes offer opportunities to engage at the international or national levels or provide information and analysis that can be used for human rights advocacy at the national level.

3.5.1 Conferences of the Parties (COP)

The Conference of the Parties (COP) is the supreme decision-making body of the UNFCCC. All States that are Parties to the UNFCCC are represented at the COP. There they review the implementation of the Convention and any other legal instruments that the COP adopts and take decisions necessary to promote the effective implementation of the Convention, including for its institutional and administrative arrangements. The COP also serves as the meeting of the Parties to the Paris Agreement (CMA)¹³⁶ and as the meeting of the Parties to the Kyoto Protocol

¹³³ One area of where NHRIs have particular knowledge and expertise concerns the right of the public to access information on environmental issues and to participate in policymaking. For example, Costa Rica's Defensoria de Los Habitantes has recommended greater public participation in climate policy and access to information on positions taken by Costa Rica at the UNFCCC. German Institute for Human Rights and the Center for International Environmental Law, *Climate Change and Human Rights: The Contributions of National Human Rights Institutions*, pp. 37 and 29. At: <https://www.institut-fuer-menschenrechte.de/publikationen/detail/climate-change-and-human-rights#>.

¹³⁴ Morocco's Conseil National des Droits de l'Homme co-hosted a workshop at COP22 on the role of NHRIs in monitoring the implementation commitments under the Paris Agreement. The workshop addressed the potential for NHRIs to cooperate with strategic partners on climate change and to encourage their states to push for a human rights-based approach to action in climate negotiations. *Idem*, p. 35.

¹³⁵ A listing and summary descriptions of the various bodies can be found at: <https://unfccc.int/process-and-meetings/bodies/the-big-picture/what-are-governing-process-management-subsidiary-constituted-and-concluded-bodies>. Their calendar of meetings is found at: <https://unfccc.int/calendar/events-list>.

¹³⁶ <https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-serving-as-the-meeting-of-the-parties-to-the-paris-agreement-cma>.

(CMP).¹³⁷ All States that are Parties to the Paris Agreement are represented at the Conference of the Parties serving as the CMA, while States that are not Parties participate as observers. The CMA oversees the implementation of the Paris Agreement and takes decisions to promote its effective implementation. Similarly, a

II States that are Parties to the Kyoto Protocol are represented at the CMP, while States that are not Parties participate as observers. The CMP oversees the implementation of the Kyoto Protocol and takes decisions to promote its effective implementation. The annual meeting of the COP is effectively three parallel meetings of the COP, CMA and CMP and resulting in three sets of outcomes.

3.5.2 Subsidiary Bodies

There are two permanent subsidiary bodies, the Subsidiary Body for Implementation (SBI)¹³⁸ and the Subsidiary Body for Scientific and Technological Advice (SBSTA).¹³⁹ The SBI assists the governing bodies in the assessment and review of the implementation of the Convention, the Kyoto Protocol and the Paris Agreement. In addition, the SBI is the body that considers the biennial work programmes for the secretariat, which provide the strategic direction to the secretariat. The SBI's work is at the heart of all implementation issues under the Convention, the Kyoto Protocol, and the Paris Agreement. In this respect, its agenda is shaped around the key building blocks of implementation of the three treaties and their related instruments: transparency, mitigation, adaptation, finance, technology and capacity-building. That work aims at enhancing the ambition of Parties on all aspects of its agenda. The SBSTA assists the governing bodies through the provision of timely information and advice on scientific and technological matters as they relate to the Convention, the Kyoto Protocol and the Paris Agreement. In addition, the SBSTA cooperates with relevant international organizations on scientific, technological and methodological questions.

The SBI and the SBSTA work together on cross-cutting issues that touch on both their areas of expertise. These include the vulnerability of developing countries to climate change and response measures, discussions under the Technology Mechanism, the Adaptation Committee and the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts. The SBI and the SBSTA have traditionally met in parallel, twice a year. When they are not meeting in conjunction with the COP, the subsidiary bodies usually convene at the seat of the UNFCCC secretariat in Bonn, Germany.

¹³⁷ <https://unfccc.int/process/bodies/supreme-bodies/conference-of-the-parties-serving-as-the-meeting-of-the-parties-to-the-kyoto-protocol-cmp>.

¹³⁸ <https://unfccc.int/process/bodies/subsidiary-bodies/sbi>

¹³⁹ <https://unfccc.int/process/bodies/subsidiary-bodies/sbsta>

3.5.3 Constituted Bodies

There are numerous UNFCCC constituted bodies.¹⁴⁰ Some of them appear to offer opportunities to address the relevance of human rights to climate action. Many do not.

3.5.3.1 Forum on the impact of the implementation of response measures and Katowice Committee of Experts on the Impacts of the Implementation of Response Measures

In 2010, COP16 decided to establish the Forum on the impact of the implementation of response measures. Arguably the impact of the implementation of response measures under the Convention, the Kyoto Protocol and the Paris Agreement would include the impact of such measures on human rights. The Forum's current work programme includes areas of work where human rights are relevant, and its modalities offer entry points for raising human rights issues.

The Forum has a mandate to:

- (a) Provide a platform allowing Parties to share, in an interactive manner, information, experiences, case studies, best practices and views, and to facilitate assessment and analysis of **the impact of the implementation of response measures**, including the use and development of modelling tools and methodologies, with a view to recommending specific actions; (Emphasis added.)
- (b) Provide recommendations to the subsidiary bodies on the actions referred to in paragraph 1(a) above for their consideration, with a view to recommending those actions, as appropriate, to the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
- (c) Provide concrete examples, case studies and practices in order to enhance the capacity of Parties, in particular developing country Parties, to deal with the impact of the implementation of response measures;
- (d) Address the effects of the implementation of response measures under the Convention, the Kyoto Protocol and the Paris Agreement by enhancing cooperation among Parties, stakeholders, external organizations, experts and institutions, by enhancing the capacity and the understanding of Parties of the impacts of mitigation actions and by enabling the exchange of information, experience and best practices among Parties to raise their resilience to these impacts;
- (e) Respond and take into consideration the relevant outcomes of different processes under the Paris Agreement;

¹⁴⁰ <https://unfccc.int/process-and-meetings#:4137a64e-efea-4bbc-b773-d25d83eb4c34:39cf4354-cdec-48f4-a5eb-3bc77eeaa024>

- (f) Promote action to minimize the adverse impacts and maximize the positive impacts of the implementation of response measures.¹⁴¹

The work programme of the Forum comprises the following areas of work to address the concerns of all Parties, particularly developing country Parties:

- (a) Economic diversification and transformation;
- (b) Just transition of the workforce and the creation of decent work and quality jobs;
- (c) Assessing and analysing the impacts of the implementation of response measures;
- (d) Facilitating the development of tools and methodologies to assess the impacts of the implementation of response measures.¹⁴²

In 2018, the COP, CMP and CMA established the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (the Katowice Committee on Impacts or KCI) to support the work of the Forum on the impact of the implementation of response measures in implementing its work programme. The KCI is the only constituted body under the Convention and Paris Agreement that deals with the impacts of the implementation of response measures.¹⁴³ The KCI reports to the Forum, which in turn reports to the Subsidiary Body for Implementation.

The Forum and the KCI may use the following modalities, as appropriate and as decided on a case-by-case basis, to carry out the work programme of the Forum:

- (a) Building awareness and enhancing information-sharing through the exchange and sharing of experience and best practices;
- (b) Preparing technical papers, case studies, specific examples and guidelines;
- (c) Receiving inputs from experts, practitioners and relevant organizations;
- (d) Organizing workshops.¹⁴⁴

The KCI, in performing its mandate, should draw upon outside expertise at its meetings. Its Co-Chairs may, in consultation with the KCI, invite representatives of

¹⁴¹ Decision 7/CMA, Annex on “Modalities, work programme and functions under the Paris Agreement of the forum on the impact of the implementation of response measures,” para. 1 in Report of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the third part of its first session, held in Katowice from 2 to 15 December 2018 FCCC/PA/CMA/2018/3/Add.1, 19 March 2019.

¹⁴² Idem, para 2.

¹⁴³ Enhancing the capacity and understanding of Parties, through collaboration and input from stakeholders, on the assessment and analysis of the impacts of the implementation of response measures to facilitate the undertaking of economic diversification and transformation and just transition, Draft technical paper, KCI/2021/4/5, para. 54.

¹⁴⁴ Matters relating to the forum on the impact of the implementation of response measures, Revised rules of procedure of the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, Draft decision -CMP.16, Annex II, para. 3 at: <https://unfccc.int/documents/310496>.

international organizations, the private sector, academia and/or civil society to participate in a meeting of the KCI as expert advisers on specific issues under consideration at the meeting.¹⁴⁵

The 2021 meeting of the Parties to the Paris Agreement:

decided that meetings of the KCI shall be open to attendance as observers by all Parties and accredited observer organizations, unless otherwise decided by the KCI. Observers may, with the agreement of the KCI, be invited to address the KCI on matters under consideration by it, and the KCI may request interventions from observers throughout the meeting, as appropriate.¹⁴⁶ requested the secretariat to hold a two-day workshop in conjunction with the fifty-sixth sessions of the subsidiary bodies (June 2022) to further advance the implementation of workplan¹⁴⁷ activities 3, 4 and 11.¹⁴⁸

¹⁴⁵ Idem, paras. 40-41.

¹⁴⁶ Idem, paras. 42, 45 and 46.

¹⁴⁷ Workplan of the forum on the impact of the implementation of response measures and its Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, Decision 4/CP.25, Annex II on the “Workplan of the forum on the impact of the implementation of response measures and its Katowice Committee of Experts on the Impacts of the Implementation of Response Measures” in Report of the Conference of the Parties on its twenty-fifth session, held in Madrid from 2 to 15 December 2019, FCCC/CP/2019/13/Add.1, 16 March 2020. On their face, many of the activities offer entry points for raising human rights issues. Activity 9 of the workplan appears to be particularly relevant.

Activity 9

Identify and assess the impacts of the implementation of response measures taking into account intergenerational equity, gender considerations and the needs of local communities, indigenous peoples, youth and other people in vulnerable situations.

¹⁴⁸ Draft decision -CMP.16, para. 3 and Workplan of the forum on the impact of the implementation of response measures and its Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, Decision 4/CP.25, Annex II.

Activity 3

Facilitate the development, enhancement, customization and use of tools and methodologies for modelling and **assessing the impacts of the implementation of response measures**, including identifying and reviewing existing tools and approaches in data-poor environments, in consultation with technical experts, practitioners and other relevant stakeholders.

Activity 4

Enhance the capacity and understanding of Parties, through collaboration and input from stakeholders, on the **assessment and analysis of the impacts of the implementation of response measures to facilitate the undertaking of economic diversification and transformation and just transition**.

Activity 11

Facilitate, exchange and share experiences and best practices in the assessment of the environmental, **social and economic co-benefits of climate change policies and actions** informed by the best available science, including the use of existing tools and methodologies. (Emphasis added.)

adopted the KCI's recommendations¹⁴⁹ pertaining to activity 1¹⁵⁰ of the workplan and *invited* Parties to implement them, as applicable;

The UNFCCC Secretariat is tasked with drafting technical papers for the KCI, and these suggest additional entry points for addressing human rights issues. One such technical paper prepared for the KCI's meetings in May and June 2021 included the following passages:¹⁵¹

22. Environmental, **social and economic impacts** are assessed and analysed using specific methods. However, they are complementary and sometimes overlapping and are usually assessed together with a focus on a specific area [...]. For example, the economic impact of a climate policy that results in changes to jobs or wages may lead to social impacts, such as migration and increasing

¹⁴⁹ ¹⁴⁹ Draft decision -CMP.16, Annex I.

1. Encourage Parties to engage relevant stakeholders at each step of the process of designing and implementing climate mitigation policies and policies to achieve sustainable development including through social dialogue, when possible and subject to national circumstances. The relevant stakeholders, among others, include workers, employers, organizations, academia, public and private sectors, women, and civil society.

2. Encourage Parties to explore complementary policies, such as economic policies, social protection, and labour policies, to help strengthen the outcomes of the implementation of mitigation strategies, plans, policies and programmes including nationally determined contributions and low-emission development strategies.

3. Encourage Parties to strengthen international and regional cooperation as it contributes towards planning and implementation of mitigation policies with environmental and socioeconomic benefits, for example to help facilitate technology development and transfer in accordance with Article 10 of the Paris Agreement, and strive towards harmonized regional approaches.

4. Encourage Parties to use existing qualitative and quantitative assessment methodologies and tools to understand social, economic and employment effects of proposed mitigation measures as a way to inform and guide climate policies and to maximize the positive and minimize the negative effects of the implementation of response measures. More analysis of impacts, including, inter alia, sectoral, national, subnational, domestic, and cross border, would be useful for informing climate policies and understanding how to maximize the positive and minimize the negative effects of the implementation of response measures.

5. Encourage the forum and its Katowice Committee on Impacts to enhance the capacity of Parties, particularly developing country Parties, through training and capacity-building efforts, including the existing initiatives. This will enable Parties to carry out their own assessments and analyses of the impacts of response measures.

¹⁵⁰ Workplan of the forum on the impact of the implementation of response measures and its Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, Decision 4/CP.25, Annex II.

Activity 1

Explore approaches to informing the development and implementation of climate change mitigation strategies, plans, policies and programmes, including nationally determined contributions and/or long-term low greenhouse gas emission development strategies, that maximize the positive and minimize the negative impacts of response measures.

¹⁵¹ Facilitating development, enhancement, customization and use of tools and methodologies for modelling and assessing the impacts of implementation of response measures, including identifying and reviewing existing tools and approaches in data-poor environments, in consultation with technical experts, practitioners and other relevant stakeholders, Work in progress by the Working Group as of 25th May 2021, KCI/2021/4/5 at https://unfccc.int/sites/default/files/resource/TP_capacity%20building.pdf

inequality. It should also be noted that impacts on the workforce, including on job opportunities and wages, are often viewed as social impacts.

23. Other indicators that can be used for climate policy assessments include impacts on energy security, diversification of energy supply, **job opportunities** and their distribution, wages (individual or family income), **income inequalities**, **poverty**, economic opportunities for rural areas, **cultural heritage**, air quality, noise, **gender inequality** and disparity, **impacts on indigenous peoples and local communities**, as well as changes in the landscape, technological changes and **potential displacement of communities**. It is also important to note that indicators for a specific study on the impacts of a policy are usually designed and decided based on the policy or specific issue being assessed and the objective or scope of the study (e.g. indicators to assess the impacts of a policy on a rural population will be very different from those to assess the impacts on firms and business). (Emphasis added.)

...

36. With respect to enhancing capacity on assessing and analysing the impacts of the implementation of mitigation policies and actions geared toward undertaking of economic diversification and transformation and just transition, the following stakeholders are of strategic relevance:

- Organizations that support data generation and maintain databases related to the indicators used to assess the impacts of policies;
- Organizations involved in developing methodologies and tools for impact assessment;
- Organizations that generate knowledge through technical or empirical studies, case studies, assessment guidance documents, good practice guides, etc.;
- Organizations that offer learning opportunities, including hands-on training on the assessment, analysis and use of tools to undertake assessments.

Although the constituent documents for the Forum and the KCI do not use human rights language, their mandate and issues addressed within that mandate suggest that some of the work of the KCI and the Forum offers opportunities to raise human rights issues and to draw on in connection with work on climate action.¹⁵²

¹⁵² An illustration of this can be found in the submission of the Quaker United Nations Office, an NGO with observer status, to the KCI - *QUNO Exploratory Note - The Just Transition: a human-rights-based approach towards the low-carbon economy*, at https://unfccc.int/sites/default/files/resource/Inputs%20from%20Quaker%20United%20Nations%20Office_Note.pdf.

3.5.3.2 Local Communities and Indigenous Peoples Platform¹⁵³ and Facilitative Working Group of the Local Communities and Indigenous Peoples Platform¹⁵⁴

The Local Communities and Indigenous Peoples Platform was created at COP23 in 2017.¹⁵⁵ The overall purposes of the Platform is to strengthen the knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change, to facilitate the exchange of experience and the sharing of best practices and lessons learned related to mitigation and adaptation in a holistic and integrated manner and to enhance the engagement of local communities and indigenous peoples in the UNFCCC process.¹⁵⁶

The Platform performs the following functions:¹⁵⁷

- (a) Knowledge: the platform should promote the exchange of experience and best practices with a view to applying, strengthening, protecting and preserving traditional knowledge, knowledge of indigenous peoples and local knowledge systems, as well as technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change, taking into account the free, prior and informed consent of the holders of such knowledge, innovations and practices;
- (b) Capacity for engagement: the platform should build the capacity of indigenous peoples and local communities to enable their engagement in the UNFCCC process and the capacity of Parties and other relevant stakeholders to engage with the platform and with local communities and indigenous peoples, including in the context of the implementation of the Paris Agreement and other climate change related processes;
- (c) Climate change policies and actions: the platform should facilitate the integration of diverse knowledge systems, practices and innovations in designing and implementing international and national actions, programmes and policies in a manner that respects and promotes the rights and interests of local communities and indigenous peoples. The platform should also facilitate the undertaking of stronger and more ambitious climate action by indigenous peoples and local communities that could contribute to the achievement of the nationally determined contributions of the Parties concerned.

The Facilitative Working Group (FWG) of the Local Communities and Indigenous Peoples Platform was established at COP24 to further operationalise the Local

¹⁵³ <https://unfccc.int/LCIPP>

¹⁵⁴ <https://unfccc.int/LCIPP-FWG>

¹⁵⁵ Decision 2/CP.23, Report of the Conference of the Parties on its twenty-third session, held in Bonn from 6 to 18 November 2017, FCCC/CP/2017/11/Add.1, 8 Feb. 2018. See also Decision 1/CP.21, para. 135. The Platform's website is at: <https://lcipp.unfccc.int/>.

¹⁵⁶ Idem, para. 5.

¹⁵⁷ Idem, para. 6.

Communities and Indigenous Peoples Platform and facilitate the implementation of its functions.¹⁵⁸ Its mandate was continued at COP26.

The second three-year workplan of the Local Communities and Indigenous Peoples Platform for 2022–2024¹⁵⁹ was welcomed at COP 26. Among the continuing needs that were identified by the FWG as the basis for the development of the workplan activities is:

- (b) Fostering and promoting a **human-rights-based approach** to ensure recognition and safeguarding of the knowledge of indigenous peoples and local knowledge systems and practices in relation to climate change.¹⁶⁰

The workplan envisages contribution to some of its activities from bodies outside the UNFCCC. The FWG reports to the Subsidiary Body for Scientific and Technological Advice.

3.5.3.3 Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (WIM)

COP19 established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (Loss and Damage Mechanism), to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate.¹⁶¹ The Mechanism is anchored in article 8 of the Paris Agreement. It fulfills the role of promoting implementation of approaches to address loss and damage associated with the adverse effects of climate change in a comprehensive, integrated and coherent manner.¹⁶²

The implementation of the functions of the Loss and Damage Mechanism is guided by the Executive Committee of the Warsaw International Mechanism for Loss and Damage.¹⁶³ Five thematic expert groups play a major role in carrying out the activities of the Executive Committee's workplan:

- Expert group on slow onset events;
- Expert group on non-economic losses;
- Technical Expert Group on Comprehensive Risk Management;
- Task Force on Displacement;

¹⁵⁸ Decision 2/CP.24 at: https://unfccc.int/sites/default/files/resource/cp24_auv_SBSTA7%20LCIPP_rev.pdf. The Facilitative Working Group's website is at: <https://unfccc.int/LCIPP-FWG>.

¹⁵⁹ FCCC/SBSTA/2021/1, annex IV at https://unfccc.int/sites/default/files/resource/sbsta2021_01E.pdf?download.

¹⁶⁰ See also activities 2 and 5 under the workplan.

¹⁶¹ Decision 2/CP.19, FCCC/CP/2013/10/Add.1, 31 January 2014. See also Decision 3/CP.18, FCCC/CP/2012/8/Add.1, 28 Feb. 2013. <https://unfccc.int/topics/adaptation-and-resilience/workstreams/loss-and-damage-ld/warsaw-international-mechanism-for-loss-and-damage-associated-with-climate-change-impacts-wim>

¹⁶² The Loss and Damage Mechanism is described in detail in and Online Guide at: https://unfccc.int/sites/default/files/resource/Online_Guide_June_2021.pdf. The Online Guide does not reflect the most recent developments at COP26.

¹⁶³ <https://unfccc.int/wim-excom>

- Expert group on action and support.

The Executive Committee acts under the guidance of the COP.¹⁶⁴ ¹⁶⁵

3.5.3.4 Adaptation Committee (AC)

The Adaptation Committee¹⁶⁶ was established by COP16 to promote the implementation of enhanced action on adaptation in a coherent manner under the UNFCCC.¹⁶⁷ It also serves the Paris Agreement. Its functions include providing technical support and guidance to the Parties; sharing of relevant information, knowledge, experience and good practices; promoting synergy and strengthening engagement with national, regional and international organizations, centres and networks; providing information and recommendations for consideration by the COP when providing guidance on means to incentivize the implementation of adaptation actions; and considering information communicated by Parties on their monitoring and review of adaptation actions and support provided and received.

3.5.3.5 The Paris Committee on Capacity-building (PCCB)

The Paris Committee on Capacity-building was established by COP 21 in 2015 as part of the adoption of the Paris Agreement to address gaps and needs, both current and emerging, in implementing capacity-building in developing country Parties and further enhancing capacity-building efforts, including with regard to coherence and coordination in capacity-building activities under the Convention.¹⁶⁸ The PCCB was requested by the COP to take into consideration cross-cutting issues such as gender responsiveness, **human rights** and indigenous peoples' knowledge in managing its first workplan, and it will continue taking cross-cutting issues into consideration in managing and implementing its second workplan for 2021-2024.¹⁶⁹ The PCCB will engage with various stakeholders in undertaking its work, including through inviting observers to meetings and opening working groups to the participation of external experts.¹⁷⁰

¹⁶⁴ Paragraphs 37-45 of the Glasgow Climate Pact address loss and damage, including by noting that without prejudice to further consideration of the matter, discussions related to the governance of the Warsaw International Mechanism on Loss and Damage associated with Climate Change Impacts did not produce an outcome. 1/CP.26.

¹⁶⁵ In addition to the WIM, the Santiago Network exists to catalyze the technical assistance of relevant organizations, bodies, networks and experts, for the implementation of relevant approaches for averting, minimize and addressing loss and damage at the local, national and regional level, in developing countries that are particularly vulnerable to the adverse effects of climate change (Decision 2/CMA.2, para 43). Although there is no indication that the Santiago Network has considered human rights, environmental and social impact assessment would be relevant to averting, minimize and addressing loss and damage. At:

<https://unfccc.int/santiago-network/about>

¹⁶⁶ <https://unfccc.int/Adaptation-Committee>

¹⁶⁷ Decision 1/CP.16, FCCC/CP/2010/7/Add.1, 15 March 2011 at para. 20,

<https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>.

¹⁶⁸ <https://unfccc.int/pccb>

¹⁶⁹ Workplan of the Paris Committee on Capacity-building for 2021–2024, para 9 at:

<https://unfccc.int/sites/default/files/resource/Workplan%20of%20the%20Paris%20Committee%20on%20Capacity%202021-4.pdf>

¹⁷⁰ Idem, para 16.

The informal coordination group for capacity-building under the Convention and the Paris Agreement (ICG) provides a space for representatives of constituted bodies, operating entities and relevant processes under the Convention and the Paris Agreement to coordinate climate change related capacity-building plans and activities, and allow for better sharing of information, coherence, and identification of opportunities. The larger segment of PCCB stakeholders, which covers developed and developing country Parties, NGOs, the private sector, civil society and academia and includes those convened under the PCCB Network, would have an interest in the work of the group but limited interaction with it.¹⁷¹

The PCCB has developed a toolkit to serve as a resource for developing country officials and their implementing partners in the assessment of relevant capacity needs, and in the determination of gaps, to implement the Paris Agreement. Unfortunately, although unsurprisingly, the only mention of human rights in the Toolkit is a single passing mention in connection with women's human rights in the section on gender, transparency, and other cross-cutting issues.¹⁷²

3.6 Processes

3.6.1 Nationally determined contributions

Nationally determined contributions (NDCs)¹⁷³ are at the heart of the Paris Agreement and the achievement of its long-term goals in articles 2 and 4(1). NDCs embody efforts by each country to reduce national emissions and adapt to the impacts of climate change. The Paris Agreement¹⁷⁴ requires each Party to prepare, communicate and maintain successive NDCs that it intends to achieve.¹⁷⁵ Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions. NDCs for individual countries can be consulted on the UNFCCC website.¹⁷⁶

¹⁷¹ Concept note on establishing an informal coordination group for capacity-building under the Convention and the Paris Agreement, FCCC/SBI/2020/13 at

https://unfccc.int/sites/default/files/resource/ICG_concept_note.pdf.

¹⁷² *PCCB Toolkit to assess capacity building gaps and needs to implement the Paris Agreement*, January 2022 at https://unfccc.int/sites/default/files/resource/220126_BLS21379%20UCC%20PCCB%20Toolkit.v04.pdf.

¹⁷³ <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs/nationally-determined-contributions-ndcs>

¹⁷⁴ Article 4(2).

¹⁷⁵ Guidance for the preparation of NDCs is found in Adoption of the Paris Agreement, Decision 1/CP.21, para. 27, FCCC/CP/2015/10/Add.1, 29 January 2016 and Decision 4/CMA.1, Further guidance in relation to the mitigation section of decision 1/CP.21, FCCC/PA/CMA/2018/3/Add.1, 19 March 2019. While the guidance naturally focusses on the accuracy and consistency of information about commitments to greenhouse gas emission mitigation and carbon removal, it also requests information about the NDC planning processes, including domestic institutional arrangements, public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner and about contextual matters, including national circumstances, such as geography, climate, economy, sustainable development and poverty eradication. Where the NDC consists of adaptation action and/or economic diversification plans resulting in mitigation co-benefits, it should include information on how the economic and social consequences of response measures have been considered in developing the NDC. Decision 4/CMA.1, Annex I, para. 4(a) and 4(d)(i).

¹⁷⁶ <https://www4.unfccc.int/sites/NDCStaging/Pages/All.aspx>

Collectively, NDCs will determine global progress in achieving the long-term goals of the Paris Agreement.¹⁷⁷ The Paris Agreement is premised on achieving those long-term goals progressively over time and builds on a ratcheting up of aggregate and individual mitigation ambition over time. NDCs are submitted every five years to the UNFCCC secretariat. Each successive NDC is to improve on the State party's previous NDC and reflect its highest possible ambition. Parties had been requested to submit new NDCs or updated NDCs by 2020 and every five years thereafter (e.g. by 2020, 2025, 2030), regardless of their respective implementation time frames. At its 2021 meeting the CMA requested Parties to Paris Agreement to revisit and strengthen the 2030 targets in their nationally determined contributions as necessary by the end of 2022 to align with the Paris Agreement temperature goal. It also requested the secretariat to update annually update the synthesis report on NDCs for each session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.¹⁷⁸

The UNFCCC secretariat prepared a synthesis report on 165 NDCs representing 192 Parties¹⁷⁹ submitted up to 12 October 2021, which presents the synthesized information for all the represented Parties taken together.¹⁸⁰ Of course, the report focusses on greenhouse gas emission reductions, but it also includes some information about processes involved in preparing the NDCs. It notes that many Parties referred to formal arrangements in place for domestic stakeholder consultation, and most indicated that they conducted consultations and engagement in an inclusive and participatory manner, with some Parties specifically referencing gender-sensitive consultations.¹⁸¹ It summarizes information provided about adaptation and links between adaptation efforts and efforts towards SDG realization. The report includes references to just transition, gender (including a section at paras 106-113) and Indigenous peoples and rights, (including a section at paras 114-115). However, it makes no mention of "human rights".¹⁸² The report notes that almost all Parties provided information on using one or more ACE elements to promote implementation of mitigation and adaptation activities. The report's summary of issues raised around adaption covers many issues with links to human rights, such as access to water and food and health standards, but no link is made with corresponding human rights.

¹⁷⁷ <https://unfccc.int/process-and-meetings/the-paris-agreement/nationally-determined-contributions-ndcs/nationally-determined-contributions-ndcs> and <https://www4.unfccc.int/sites/ndcstaging/Pages/LatestSubmissions.aspx>

¹⁷⁸ Glasgow Climate Pact, paras. 29-30, at:

https://unfccc.int/sites/default/files/resource/cma3_auv_2_cover%20decision.pdf

¹⁷⁹ The European Union and its 27 member States communicated one joint NDC, which was counted as one NDC representing 28 Parties.

¹⁸⁰ https://unfccc.int/sites/default/files/resource/cma2021_08r01_E.pdf

¹⁸¹ Idem at para. 20-23.

¹⁸² An unrelated thinktank based online NDC Explorer provides country-specific information about NDCs that covers a variety of topics such as stakeholder consultation in NDC preparation, fairness and equity, gender and human rights. <https://klimalog.die-gdi.de/ndc/#NDCExplorer/worldMap?NDC??income???catIncome>. United Nations Economic Commission for Latin America and the Caribbean has described how human rights are reflected in NDCs made prior to 2019. See, Climate Change and Human Rights: Contributions by and for Latin America and the Caribbean, 2019, pp. 43-45 at https://repositorio.cepal.org/bitstream/handle/11362/44971/1/S1900999_en.pdf

Information provided in the NDCs can be used to monitor whether national governments are meeting their procedural and substantive human rights obligations and to identify possible entry points for human rights advocacy.

3.6.2 Global Stocktake

Article 14 of the Paris Agreement establishes the global stocktake (GST) and sets out its purposes. The GST is a process for assessing the implementation of the Paris Agreement and the world's collective progress towards achieving the purpose of the Agreement and its long-term goals.¹⁸³

The GST will be comprehensive and facilitative and will assess collective progress on mitigation, adaptation, finance flows, and means of implementation and support. It can take account of efforts to address the social and economic consequences of response measures and to avert, minimize and address loss and damage associated with the adverse effects of climate change. The collective assessment should take into consideration inputs on equity and make use of the best available science.

The outcome of the GST aims to inform countries on updating and enhancing, in a nationally determined manner, their climate actions and support, as well as on enhancing international cooperation for climate action.

It is important to note that while the GST is expected to lead to an increase in the overall ambition of actions and support for addressing climate change, it will be collective and not focus on individual countries or groups of countries. Its outputs will not be policy-prescriptive, but will consist of key political messages and recommendations, best practices, new opportunities and lessons learned for all thematic areas.

The modalities for the GST and its sources of information for the stocktaking are established in [decision 19/CMA.1](#).¹⁸⁴ The CMA has the overall responsibility for the GST, which is to be conducted with the assistance of the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA). The Chairs of the SBI and the SBSTA have provided guidance to organize the GST in a flexible and appropriate manner and developed guiding questions for all components of the global stocktake, including specific thematic and cross-cutting questions.¹⁸⁵

The GST is a three-step process that consists of information collection and preparation; a technical assessment of that information to take stock of the implementation of the Paris Agreement and assess the collective progress towards

¹⁸³ <https://unfccc.int/topics/global-stocktake>

¹⁸⁴ Matters relating to Article 14 of the Paris Agreement and paragraphs 99–101 of decision 1/CP.21, FCCC/PA/CMA/2018/3/Add.2, 19 March 2019. See also: Sources of input for the global stocktake under the Paris Agreement at https://unfccc.int/sites/default/files/resource/sbsta2021_L04E.pdf.

¹⁸⁵ Preparing for the First Global Stocktake Revised Non-Paper by the Chairs of the SBSTA and SBI, at: https://unfccc.int/sites/default/files/resource/REV_Non-paper_on_Preparing_for_GST1_forSBs_15Sept.pdf and Guiding questions by the SB Chairs for the Technical Assessment component of the first Global Stocktake: Revised questions, 18 February 2022 at https://unfccc.int/sites/default/files/resource/Draft%20GST1_TA%20Guiding%20Questions.pdf.

achieving the purpose and long-term goals of the Paris Agreement; and consideration of outputs to inform Parties in updating and enhancing their NDCs as well as international cooperation for climate action. The first GST started in 2021 and will conclude in late 2023, and the process will be repeated every 5 years thereafter.

The provision for the GST to address the social and economic consequences and impacts of climate response measures offers an opportunity to raise human rights issues.^{186 187}

3.6.3 National Adaptation Programmes of Action

National Adaptation Programmes of Action (NAPAs) provide a process for the Least Developed Countries (LDCs) to identify priority activities that respond to their *urgent and immediate* needs regarding adaptation to climate change - those needs for which further delay could increase vulnerability or lead to increased costs at a later stage. Once a NAPA has been submitted to the UNFCCC secretariat, the LDC Party is eligible to access funding under the Least Developed Countries Fund (LDCF), which is managed by the Global Environment Facility (GEF), for the implementation of the NAPA.¹⁸⁸

3.6.4 National Adaptation Plans

Article 7 of the Paris Agreement aims to strengthen the global climate change response by increasing the ability of all Parties to adapt to adverse impacts of climate change and foster climate resilience. It defines a global goal on adaptation of enhancing adaptive capacity and resilience and reducing vulnerability, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the goal of holding average global warming well below 2 degrees C and pursuing efforts to hold it below 1.5 degrees C.

The national adaptation plan (NAP) process enables Parties to formulate and implement NAPs as a means of identifying *medium- and long-term* adaptation needs and developing and implementing strategies and programmes to address those needs.¹⁸⁹ The objectives of the NAP process are:

- (a) to reduce vulnerability to the impacts of climate change, by building adaptive capacity and resilience; and
- (b) to facilitate the integration of climate change adaptation, in a coherent manner, into relevant new and existing policies, programmes and

¹⁸⁶ Idem. Note in particular, question 19, which addresses how is climate action respecting, promoting and considering Parties' 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 situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity. Some other questions are also relevant to human rights.

¹⁸⁷ CIEL, Promoting Human Rights in Climate Action: A Global Stocktake Informed by Human Rights. 2022 at https://www.ciel.org/wp-content/uploads/2022/02/2022_2_2_CIEL_Briefing_A-Global-Stocktake-Informed-by-Human-Right.pdf

¹⁸⁸ <https://unfccc.int/topics/resilience/workstreams/national-adaptation-programmes-of-action/introduction>

¹⁸⁹ <https://unfccc.int/topics/adaptation-and-resilience/workstreams/national-adaptation-plans>

activities, in particular development planning processes and strategies, within all relevant sectors and at different levels, as appropriate.¹⁹⁰

The process is a continuous, progressive and iterative process, which should be based on nationally identified priorities, including those reflected in relevant national documents, plans and strategies, and coordinated with national sustainable development objectives, plans, policies and programmes.¹⁹¹ It should follow a country-driven, gender-sensitive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems.¹⁹²

National Adaptation Plans from developing countries are posted on the UNFCCC website at:

<https://www4.unfccc.int/sites/NAPC/Pages/national-adaptation-plans.aspx>

A variety of databases related to adaptation and resilience are located at:

<https://unfccc.int/topics/resilience/resources/adaptation-databases>

Adaptation communications submitted pursuant to article 7(1) of the Paris Agreement¹⁹³ are accessible at:

<https://unfccc.int/topics/adaptation-and-resilience/workstreams/adaptation-communications>

Information in NAPs and adaptation communications will be relevant to identifying and advocating for links between human rights and adaptation measures.

3.6.5 Knowledge-to-Action Hub for Climate Adaptation and Resilience

The UNFCCC Knowledge-to-Action Hub for Climate Adaptation and Resilience (also called the Nairobi work programme (NWP)) is an inclusive network of over 400 organizations committed to close knowledge gaps and scale up climate adaptation action in countries.¹⁹⁴ The Adaptation Knowledge Portal is a searchable online resource of the Knowledge-to-Action Hub that provides free and open access to adaptation knowledge resources and information on the Hub's partner organizations. The Portal builds on the contributions of policy makers, practitioners and researchers to offer informed and credible adaptation knowledge and learning.¹⁹⁵

¹⁹⁰ Decision 5/CP.17, para. 1, FCCC/CP/2011/9/Add.1, 15 March 2012 at <https://unfccc.int/documents/42171>.

¹⁹¹ Idem, para 2.

¹⁹² Idem, para. 3.

¹⁹³ Decision 9/CMA.1 on Further guidance in relation to the adaptation communication, FCCC/PA/CMA/2018/3/Add.1, 19 March 2019 at <https://unfccc.int/documents/193407>.

¹⁹⁴ <https://unfccc.int/topics/adaptation-and-resilience/workstreams/the-nairobi-work-programme-the-unfccc-knowledge-to-action-hub-for-climate-adaptation-and-resilience>

¹⁹⁵ <https://www4.unfccc.int/sites/nwpstaging/Pages/Home.aspx>

A search of the portal for “human rights” yields one result, which is a UN Habitat set of cross-cutting checklists used to ensure that gender, youth and human rights issues are considered at the project development stage and the checklist is required for project approval.¹⁹⁶

3.6.6 Action for Climate Empowerment

Action for Climate Empowerment (ACE) denotes work under Article 6 of the UNFCCC and Article 12 of the Paris Agreement. The over-arching goal of ACE is to empower all members of society to engage in climate action, through education, training, public awareness, public participation, public access to information, and international cooperation on these issues.¹⁹⁷ At COP 26, the COP and the CMA adopted the ten-year Glasgow work programme on Action for Climate Empowerment.¹⁹⁸ In a submission made in February 2020, the Office of the High Commissioner for Human Rights and other UN entities described the basis for a rights-based approach to Action for Climate Empowerment.¹⁹⁹ Although the Glasgow work programme does not mention human rights, elements dealing with public access to information and public participation and education offer entry points for raising human rights.

3.6.7 Enhanced Lima Work Programme on Gender and Gender Action Plan

The Lima work programme on gender was established in 2014²⁰⁰ and an enhanced work programme and related gender action plan were adopted in 2019.²⁰¹ That gender action plan was based on a secretariat report on the implementation of the original Lima work programme on gender and its gender action plan.²⁰² It sets out objectives and activities under the following five priority areas: Capacity-building, knowledge management and communication; Gender balance, participation and women’s leadership; Coherence; Gender-responsive implementation and means of implementation; and Monitoring and reporting.²⁰³ These aim to advance knowledge and understanding of gender-responsive climate action and its coherent mainstreaming in the implementation of the UNFCCC and the work of Parties, the secretariat, United Nations entities and all stakeholders at all levels, as well as women’s full, equal and meaningful participation in the UNFCCC process.²⁰⁴

¹⁹⁶ Search of 10 November 2021.

¹⁹⁷ <https://unfccc.int/topics/education-youth/the-big-picture/what-is-action-for-climate-empowerment>

¹⁹⁸ See the Annex to FCCC/SBI/2021/L.18 of 6 Nov. 2021. Although the Glasgow work programme makes no mention of human rights, paragraph 91 of the Glasgow Climate Pact “urges Parties to swiftly begin implementing the Glasgow work programme on Action for Climate Empowerment, respecting, promoting and considering their respective obligations on human rights, as well as gender equality and empowerment of women.” At: https://unfccc.int/sites/default/files/resource/cma3_auv_2_cover%20decision.pdf

¹⁹⁹ https://www.ohchr.org/Documents/Issues/ClimateChange/OHCHR_ILO_UNWomen_UNESCO_UNEP_ECLAC_UNICEF_UNECE_JSubmission_ACE.pdf

²⁰⁰ Decision 18/CP.20, FCCC/CP/2014/10/Add.3, 2 February 2015.

²⁰¹ Decision 3/CP.25, Enhanced Lima work programme on gender and its gender action plan, FCCC/CP/2019/13/Add.1, 16 March 2020

²⁰² Implementation of the Lima work programme on gender and its gender action plan, Synthesis report by the Secretariat, FCCC/SBI/2019/15/Add.1, 21 Oct. 2019.

²⁰³ Decision 3/CP.25, Annex, Action Plan, paras. 4 to 8.

²⁰⁴ <https://unfccc.int/topics/gender/workstreams/the-gender-action-plan>

Although there is no mention of human or women's rights in the enhanced Lima work programme on gender and gender action plan, other than in the reproduction of preambular paragraph 11 of the Paris Agreement in the preamble to Decision 3/CP.25, the many references to human and women's rights in the secretariat report suggest that the Lima work programme offers opportunities to raise human rights issues and to draw on the programme in connection with work on climate action.²⁰⁵

3.6.8 Emissions Trading (Voluntary cooperation in the implementation of nationally determined contributions)

Article 6 of the Paris Agreement aims to give substance to the objective of facilitating voluntary cooperation in the implementation of Parties' nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity. Article 6 envisages market and non-market approaches to that cooperation.²⁰⁶

Article 6(2) establishes the possibility of trading emission reduction credits between Parties, with the aim of linking carbon pricing across Parties and resulting in the greater mitigation of greenhouse gas emissions²⁰⁷ than what would be possible domestically or nationally. Article 6(4) creates a new international mitigation mechanism to help Parties reduce emissions and promote sustainable development. The mitigation engendered under this mechanism can be used by Parties other than the Party where the emissions mitigation takes place to fulfil their NDCs. This provision allows for offsetting through the trading of emission reduction credits. COP 26 (CMA3) adopted rules, modalities and procedures for the Article 6(4) mechanism and designated a newly created Supervisory Body to oversee the mechanism, under the authority of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).²⁰⁸ The Supervisory Body's initial task to make the article 6(4) mechanism operational.

Experience with emission credits trading under the Clean Development Mechanism of the Kyoto Protocol, has demonstrated risks of human rights violations associated with traded credits.²⁰⁹ Against that background, it is noteworthy that the CMA has imported

²⁰⁵ See also the COP26 (CMA3) decision on Gender and climate change at:

https://unfccc.int/sites/default/files/resource/cop26_auv_13%20gender_and_climate_change.pdf

²⁰⁶ What are Market and Non-Market Mechanisms? <https://unfccc.int/topics/what-are-market-and-non-market-mechanisms>

²⁰⁷ Mitigation involves reduction of greenhouse gas emissions or carbon removal, see:

<https://unfccc.int/topics/mitigation/the-big-picture/introduction-to-mitigation>.

²⁰⁸ Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf

²⁰⁹ For illustrations, see Carbon Market Watch, The Clean Development Mechanism: Local Impacts of a Global System, October 2018 at: <https://carbonmarketwatch.org/wp-content/uploads/2018/10/CMW-THE-CLEAN-DEVELOPMENT-MECHANISM-LOCAL-IMPACTS-OF-A-GLOBAL-SYSTEM-FINAL-SPREAD-WEB.pdf>.

preambular paragraph 11 of the Paris Agreement²¹⁰ into its decisions on Article 6(2)²¹¹ and 6(4)²¹². The Supervisory Body is tasked with establishing the requirements and processes necessary to operate the mechanism, relating to, inter alia, the eleventh preambular paragraph of the Paris Agreement. The development of human rights safeguards for the article 6(4) emissions trading mechanism is thus a work in progress. It is also noteworthy and welcome that the CMA decision related to article 6(4) provides that Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by an independent grievance process.²¹³

Article 6(8) creates a framework for non-market approaches mechanism. Just as the details of the article 6(4) market mechanism need to be developed, Parties must also agree on how the new framework for non-market approaches mechanism will function. The non-market approaches mechanism could potentially cover a wide range of activities, provided they are not market-based. CMA3 (COP 26) created a programme of work led by the Glasgow Committee on Non-market Approaches, under the Subsidiary Body for Scientific and Technological Advice, to flesh out the non-market approaches mechanism.²¹⁴ The CMA has required that non-market approaches facilitated under Article 6(8) are conducted in a manner consistent with the eleventh preambular paragraph of the Paris Agreement.²¹⁵

²¹⁰ “Acknowledging that climate change is a common concern of humankind, 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 situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

²¹¹ CMA decision on *Guidance on cooperative approaches referred to in Article 6, paragraph 2, of the Paris Agreement*, preamble and Annex, paras. 18(i)(ii) and 22(g) at:

https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

²¹² CMA decision on Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, preamble and Annex, para. 24(a)(ix) at:

https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf

24. The Supervisory Body shall, in accordance with relevant decisions of the CMA:

(a) Establish the requirements and processes necessary to operate the mechanism, relating to, inter alia:

(ix) The eleventh preambular paragraph of the Paris Agreement, acknowledging that climate change is a common concern of humankind, 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 situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity;

(x) The application of robust, social and environmental safeguards;

From the perspective of textual interpretation, one must wonder about the meaning of the distinction that appears to be made between the safeguards covered by the contents of preambular paragraph 11 and the expression “social safeguards”, which is used frequently in UNFCCC decisions.

²¹³ Idem at para. 62. The modalities for appealing decisions and addressing grievances have not been established.

²¹⁴ Work programme under the framework for non-market approaches referred to in Article 6, paragraph 8, of the Paris Agreement at: https://unfccc.int/sites/default/files/resource/cma3_auv_12c_PA_6.8.pdf

²¹⁵ Annex to the CMA decision on “Work programme under the framework for non-market approaches referred to in Article 6, paragraph 8, of the Paris Agreement, paragraph 3(e).

3. Each non-market approach facilitated under the framework, in the context of Article 6, paragraph 8:

(e) Is conducted in a manner that respects, promotes and considers respective

The introduction of preambular paragraph 11 of the Paris Agreement into the CMA decisions governing emissions trading and other voluntary cooperation under article 6 provides a basis for advocacy at the national and international levels aimed at ensuring that such cooperation is carried out consistent with relevant human rights obligations and that this is borne in mind by the Supervisory Body as it makes the article 6(4) mechanism operational.

3.6.9 Enhanced Transparency Framework

The Paris Agreement establishes an Enhanced Transparency Framework (ETF) designed to build trust and confidence that all countries are contributing their share to the global effort.²¹⁶

CMA1 (COP24) fleshed out a transparency framework for greenhouse gas emissions and removals that is applicable to all countries by adopting a detailed set of modalities, procedures and guidelines that make it operational.²¹⁷ The modalities, procedures and guidelines are based on a set of guiding principles²¹⁸ and define the reported information to be provided, the technical expert review, transitional arrangements, and a facilitative multilateral consideration of progress.²¹⁹

Through the detailed guidance on the reporting, review and consideration processes for the information to be submitted and by making these reports publicly available, the ETF will make it possible to track the progress made by each country. In this way, it will be possible to compare a country's actions against its plans and ambitions as described in its Nationally Determined Contributions. With the aim of making that transparency as robust and accurate as possible, the Parties agreed to common reporting tables at CMA3 (COP26).²²⁰

obligations of Parties on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity, consistent with the eleventh preambular paragraph of the Paris Agreement.

At: https://unfccc.int/sites/default/files/resource/cma3_auv_12c_PA_6.8.pdf.

²¹⁶ <https://unfccc.int/process-and-meetings/transparency-and-reporting/reporting-and-review-under-the-paris-agreement>

²¹⁷ Decision 18/CMA.1, Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement, FCCC/PA/CMA/2018/3/Add.2, 19 March 2019. Previously reporting was required only of the Annex I Parties to the UNFCCC and to the Kyoto Protocol, see: <https://unfccc.int/preparation-of-ncs-and-brs#eq-2>. The ETF under the Paris Agreement builds on that measurement, reporting and verification system under the Convention.

²¹⁸ <https://unfccc.int/process-and-meetings/transparency-and-reporting/reporting-and-review-under-the-paris-agreement/reporting-and-review-under-the-paris-agreement/guiding-principles-for-mpgs>

²¹⁹ FAQ's on the operationalization of the Enhanced Transparency Framework https://unfccc.int/sites/default/files/resource/ETF%20FAQs_redesign.pdf. See also Reference Manual for the Enhanced Transparency Framework under the Paris Agreement: Understanding the enhanced transparency framework and its linkages to nationally determined contribution accounting <https://unfccc.int/sites/default/files/resource/ETFReferenceManual.pdf>.

²²⁰ Decision -/CMA.3, Guidance operationalizing the modalities, procedures and guidelines for the enhanced transparency framework referred to in Article 13 of the Paris Agreement, https://unfccc.int/sites/default/files/resource/cma3_auv_5_transparency_0.pdf

Parties to the Paris Agreement are required to submit their first biennial transparency report and national inventory report, if submitted as a stand-alone report, in accordance with the ETF modalities, procedures and guidelines, at the latest by 31 December 2024.

The enhanced transparency framework represents an important component of the ambition cycle in the global climate regime established by the Paris Agreement by building trust and confidence that countries are taking action to meet their national climate targets and actions defined in their Paris Agreement NDCs. In addition to scientific research and findings by the IPCC, information reported in biennial transparency reports²²¹ will be considered at a collective level as an important input into the global stocktake with the aim of leading to stronger climate action.

The biennial transparency reports are to include information related to climate change impacts and adaptation under Article 7 of the Paris Agreement,²²² which could be used in assessing the human rights impacts of adaptation measures.

3.7 Intergovernmental Panel on Climate Change (IPCC)

The Intergovernmental Panel on Climate Change was created in 1988 by the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP). It is an organization of governments that are members of the United Nations or WMO and currently has 195 members. Its purpose is to provide governments at all levels with scientific information that they can use to develop climate policies. IPCC reports are also a key input into international climate change negotiations.

The IPCC prepares comprehensive Assessment Reports about knowledge on climate change, its causes, potential impacts and response options. The IPCC also produces Special Reports, which are an assessment of a specific issue, and Methodology Reports, which provide practical guidelines for the preparation of greenhouse gas inventories.

The IPCC does not conduct its own research. In preparing the Assessment Reports, IPCC scientists assess the thousands of scientific papers published each year to provide a comprehensive summary of what is known about the drivers of climate change, its impacts and future risks, and how adaptation and mitigation can reduce those risks. An open and transparent review by experts and governments around the world is an essential part of the IPCC process, to ensure an objective and complete assessment and to reflect a diverse range of views and expertise. Through its assessments, the IPCC identifies the strength of scientific agreement in different areas and indicates where further research is needed.

The IPCC is currently in its [Sixth Assessment cycle](#), during which the IPCC will produce the Assessment reports of its three Working Groups,²²³ three Special

²²¹ Idem, Annex IV.

²²² Idem, Annex IV.

²²³ [WGI – The Physical Science Basis](#), [WGII – Impacts, Adaptation and Vulnerability](#), [WGIII – Mitigation of Climate Change](#). The Working Group I contribution to the Sixth Assessment Report, *Climate Change 2021: The*

Reports,²²⁴ a refinement to the Methodology Report and a Synthesis report.²²⁵²²⁶ The Synthesis Report will be the last of the Sixth Assessment Report products. It is due for publication in September 2022 in time to inform the 2023 Global Stocktake under the UNFCCC as mandated by [Decision 1/CP.21](#). The Synthesis Report of the Sixth Assessment Report (AR6) will provide an overview of the state of knowledge on the science of climate change, emphasizing new results since the publication of the Fifth Assessment Report (AR5) in 2014.²²⁷ It will be composed of two parts, a Summary for Policymakers (SPM) and a Longer Report, and it will be published in the six official UN languages.

On 28 February 2022, IPCC Working Group II published its contribution to the Sixth Assessment Report, *Climate Change 2022: Impacts, Adaptation and Vulnerability*.²²⁸ The Summary for Policymakers that accompanies the full report, makes clear the dire consequences of ongoing failure to take the measures necessary to limit global warming to 1.5°C above pre-industrial levels by 2050. In its discussion of the need to adapt to climate change and avoid maladaptation and to pursue climate resilient development, the Summary for Policymakers presents a compelling case for the relevance of human rights standards and processes. Although it speaks in terms of equity and justice, the relevance of human rights standards is obvious.

3.8 Green Climate Fund (GFC)

The Green Climate Fund²²⁹ is a global platform to respond to climate change by investing in low-emission and climate-resilient development. It was established at COP 16 (Cancun) as an operating entity of the Financial Mechanism of the Convention.²³⁰

Physical Science Basis, is the most up-to-date physical understanding of the climate system and climate change, bringing together the latest advances in climate science. It was finalized on 6 August 2021. See: <https://www.ipcc.ch/report/sixth-assessment-report-working-group-i/>

Working Group II is probably most relevant to discussion of issues related to human rights. Among other matters, it considers:

- Ethics and equity: climate change, sustainable development, gender, poverty eradication, livelihoods, and food security.
- Perception of risks and benefits of climate change, adaptation and mitigation options, and societal responses, including psychological and sociological aspects.
- Epistemology and different forms of climate related knowledge and data, including indigenous and practice-based knowledge.

The Working Group II contribution to the Sixth Assessment Report is scheduled to be finalized in February 2022.

²²⁴ Special Reports on [Global Warming of 1.5°C](#), on [Climate Change and Land](#), and on the [Ocean and the Cryosphere in a Changing Climate](#).

²²⁵ IPCC Procedures for the preparation, review, adoption and approval of the SYR can be found at <https://www.ipcc.ch/site/assets/uploads/2018/09/ipcc-principles-appendix-a-final.pdf>.

²²⁶ According to [IPCC procedures](#) the Synthesis Report (SYR) should “synthesise and integrate materials contained within the Assessment Reports and Special Reports” and “should be written in a non-technical style suitable for policymakers and address a broad range of policy-relevant but policy-neutral questions approved by the Panel”.

²²⁷ <https://www.ipcc.ch/about/> and AR6 Synthesis Report (SYR), <https://www.ipcc.ch/ar6-syr/>

²²⁸ https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_FinalDraft_FullReport.pdf. The full report is over 3600 pages long. It is accompanied by a 36-page Summary for Policymakers, at: https://report.ipcc.ch/ar6wg2/pdf/IPCC_AR6_WGII_SummaryForPolicymakers.pdf.

²²⁹ <https://www.greenclimate.fund/>

²³⁰ [Decision 1/CP.16](#) at <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf#page=17>

The relationship between the COP and the GCF is stipulated in the arrangements between the two contained in decision 5/CP.19.²³¹ The Fund is governed by the GCF Board and it is accountable to and functions under the guidance of the COP to support projects, programmes, policies and other activities in developing country Parties using thematic funding windows. The GCF also serves the Paris Agreement in accordance with Article 9, paragraphs 8 and 9 of the Paris Agreement.

The GCF endeavours to ensure that the climate finance it allocates does not harm local communities or ecosystems. GCF standards include equitably managing environmental and social risks in relation to its activities,²³² as well as implementing an Indigenous People's Policy²³³ to reflect the importance of fully and effectively engaging with indigenous peoples in the design, development and implementation of the strategies and activities to be financed by GCF, all while respecting their rights.²³⁴ GCF is also the first climate finance mechanism to mainstream gender perspectives from the outset of its operations as an essential decision-making element for the deployment of its resources.²³⁵

GCF's Environment and Social Management System (ESMS) is made up of processes and procedures which help GCF identify, analyse, avoid, minimise, and mitigate any potential adverse environmental and social impact of climate finance activities. The ESMS is designed not only to avoid harm, but to improve the environmental and social performance of GCF and the activities it finances consistently over time.

Accredited Entities are at the frontline of these safeguards. GCF accredits a broad range of international, sub-national, national and regional organizations to propose and implement GCF-approved climate initiatives. The accreditation process aims at ensuring these institutions are not only capable of strong financial management, but that they can safeguard GCF projects against any unforeseen environmental or social harm. Accredited Entities need to put in place environmental and social management systems that incorporate institutional policies, processes and safeguards standards. Where gaps or weaknesses exist, GCF requires Accredited Entities to address them. This aims at ensuring an effective environmental and social management system is in place before GCF-financed activities are implemented. Once projects have begun to be implemented, GCF will continue to evaluate the environmental and social performance of the Accredited Entities and supported activities. All GCF-financed activities, including those affecting Indigenous Peoples, are required to establish a grievance redress mechanism at the project level to address any project-related concerns, in consultation with the affected or potentially affected communities.

When allegations of environmental and social harm are raised in association with GCF activities, it is possible for affected parties to contact the Independent Redress Mechanism (IRM). The IRM operates outside of the GCF Secretariat and reports directly to the GCF Board, which oversees GCF management. The IRM responds to

²³¹ <https://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf#page=13>

²³² Revised Environmental and Social Policy,
<https://www.greenclimate.fund/sites/default/files/document/revised-environmental-and-social-policy.pdf>

²³³ <https://www.greenclimate.fund/sites/default/files/document/ip-policy.pdf>

²³⁴ <https://www.greenclimate.fund/projects/safeguards/ip>

²³⁵ <https://www.greenclimate.fund/sites/default/files/document/gcf-gender-policy.pdf>

complaints by people who feel they have been adversely affected, or may be affected, by GCF projects or programmes, including issues related to GCF's environmental and social safeguards. The IRM helps project-affected people by facilitating dispute resolution processes to seek joint solutions, or by conducting independent compliance investigations and recommending redress where appropriate. Complainants can approach the IRM confidentially if necessary.

3.9 Global Environment Facility (GEF)

The Global Environment Facility²³⁶ serves as a financial mechanism for several environmental conventions including as an operating entity of the Financial Mechanism under the UNFCCC.²³⁷ The relationship between the Conference of Parties (COP) of the UNFCCC and the GEF Council was agreed in a memorandum of understanding (MOU).²³⁸ As outlined in the MOU and pursuant to Article 11.1 of the Convention, the COP provides guidance to the GEF, as an entity entrusted with the Financial Mechanism of the Convention, on policies, programme priorities and eligibility criteria for funding.

Furthermore, the GEF, as well as the Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF) administered by the GEF, serve the Paris Agreement, in accordance with Article 9, paragraph 8, of the Paris Agreement.²³⁹ Guidance to the GEF on the policies, programme priorities and eligibility criteria related to the Paris Agreement is provided by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) and is transmitted by the COP. The COP decided that the guidance to the entities entrusted with the operations of the Financial Mechanism of the Convention in relevant decisions of the COP, including those agreed before adoption of the Paris Agreement, shall apply *mutatis mutandis*.

The GEF has several key roles to play under the Paris Agreement.²⁴⁰ The GEF's climate change mitigation strategy, which is financed through the GEF Trust Fund, supports developing countries as they make transformational shifts towards low emission development pathways with three fundamental objectives:

- Promoting innovation and technology transfer for sustainable energy breakthroughs

²³⁶ <https://www.thegef.org/>

²³⁷ The GEF and the GFC are both operating entities of the Financial Mechanism for the UNFCCC and receive guidance from the UNFCCC Conferences of the Parties. They are independent of one another but have arrangements in place since 2018 to pursue complementarity and coherence in their activities. Towards a Long-Term Vision on Complementarity GEF and GCF Collaboration: Joint between paper between the secretariats of GEF and GCF, 3 May 2021; <https://www.greenclimate.fund/sites/default/files/document/gcf-gef-complementarity-vision.pdf>

²³⁸ Decision 12/CP.2 <https://unfccc.int/resource/docs/cop2/15a01.pdf#page=55> and Decision 12/CP.3 <https://unfccc.int/resource/docs/cop3/07a01.pdf#page=43>.

²³⁹ Decision 3/CMA.1 paragraph 7, https://unfccc.int/sites/default/files/resource/cma2018_3_add1_advance.pdf

²⁴⁰ <https://www.thegef.org/what-we-do/topics/climate-change>

- Demonstrating mitigation options with systemic impacts, by strengthening interaction and integration between climate change mitigation and the other GEF focal areas²⁴¹
- Mainstreaming mitigation concerns into sustainable development strategies through the continuous support of enabling conditions in developing countries.

The GEF's climate change adaptation strategy, which is financed through the Least Developed Countries Fund²⁴² and the Special Climate Change Fund,²⁴³ aims at supporting developing countries to move to a climate resilient development pathway while reducing exposure to the immediate risks posed by climate change. The GEF adaptation strategy hinges upon three main pillars:

- Reduce vulnerability and increase resilience through innovation and technology transfer for adaptation
- Mainstream adaptation and resilience for systemic impact
- Foster enabling conditions for effective and integrated adaptation.

The GEF has adopted policies that must be respected in GEF-financed projects and programs, including on Environmental and Social Safeguards,²⁴⁴ Gender Equality,²⁴⁵ Stakeholder Engagement,²⁴⁶ and Indigenous Peoples.²⁴⁷ The Policy on Environmental and Social Safeguard sets out the GEF's approach to anticipating and then avoiding, preventing, minimizing, mitigating, managing, offsetting or compensating any adverse impacts that GEF-financed projects and programs may have on people or the environment throughout the project or program cycle, thereby enhancing the environmental and social outcomes of such projects and programs. It addresses environmental and social assessment, management and monitoring; grievance and conflict resolution; restrictions on land use and involuntary resettlement; indigenous peoples; cultural heritage; labour and working conditions; and community health, safety and security. GEF requires that each GEF partner agency responsible for implementing GEF-funded projects and programs, has in place a Grievance and Accountability System to respond to complaints from project-affected people and communities, including on potential policy non-compliance. Complaints related to GEF-financed projects and programs and other issues of importance to GEF operations can also be made to the GEF Conflict Resolution Commissioner.²⁴⁸ The Commissioner facilitates actions among relevant parties, including complainants, partner agencies, recipient countries and other stakeholders.

²⁴¹ Biodiversity loss, chemicals and waste, climate change, international waters, and land degradation.

²⁴² <https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf>

²⁴³ <https://www.thegef.org/what-we-do/topics/special-climate-change-fund-sccf>

²⁴⁴ https://www.thegef.org/sites/default/files/documents/gef_environmental_social_safeguards_policy.pdf

and https://www.thegef.org/sites/default/files/documents/guidelines_gef_policy_environmental_social_safeguards.pdf

²⁴⁵ https://www.thegef.org/sites/default/files/documents/Gender_Equality_Policy.pdf and

https://www.thegef.org/sites/default/files/documents/Gender_Equality_Guidelines.pdf

²⁴⁶ https://www.thegef.org/sites/default/files/documents/Stakeholder_Engagement_Policy_0.pdf

²⁴⁷ https://www.thegef.org/sites/default/files/publications/Indigenous_Peoples_Principle_EN.pdf

²⁴⁸ <https://www.thegef.org/projects-operations/conflict-resolution-commissioner>

4 Regional and Other International Organisations

4.1 Africa

4.1.1 African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was established further to article 30 of the African Charter on Human and Peoples' Rights "to promote human and peoples' rights and ensure their protection in Africa". Article 45 of the Charter enumerates the functions of the Commission to be :

- the promotion of human and peoples' rights;
- the protection of human and peoples' rights;
- interpretation of the provisions of the Charter; and
- any other task assigned to it by the OAU Assembly.

The Commission is composed of eleven members serving in their personal and independent capacity. Its Secretariat, which is also the Headquarters of the Commission, is located in Banjul, The Gambia. National human rights institutions established by States party to the African Charter can have affiliate status with the Commission,²⁴⁹ and twenty-two do.

Since 2009 the Commission has adopted occasional resolutions referring to climate change.²⁵⁰ In 2009, it recognised early the relationship between climate change and human rights. In a series of resolutions on the topic,²⁵¹ it has tasked its Working Group on Economic and Social Rights, in collaboration with the Working Group on Extractive Industries, Environment and Human Rights Violations, to undertake a "study on the impact of climate change on human rights in Africa". The study is in preparation. At the Commission's 69th session in 2021, it adopted a resolution on Climate Change and Forced Displacement in Africa.²⁵²

²⁴⁹ See. <https://www.achpr.org/nhris>. Rules of Procedure of the African Commission on Human and Peoples' Rights of 2020, rule 71, <https://www.achpr.org/legalinstruments/detail?id=72>. Resolution on the Granting of Affiliate Status to National Human Rights Institutions and specialized human rights institutions in Africa - ACHPR/Res. 370 (LX) 2017, <https://www.acdhrs.org/wp-content/uploads/2017/07/Resolution-on-the-Granting-of-Affiliate-Status-to-National-Human-Rights-Institutions-and-specialized-human-rights-institutions-in-Africa.pdf>

²⁵⁰ 153 Resolution on Climate Change and Human Rights and the Need to Study its Impact in Africa - ACHPR/Res.153(XLVI)09 at <https://www.achpr.org/sessions/resolutions?id=291>; 271 Resolution on Climate Change in Africa - ACHPR/Res.271(LV)2014 at

<https://www.achpr.org/sessions/resolutions?id=318>; and 342 Resolution on Climate Change and Human Rights in Africa - ACHPR/Res.342(LVIII)2016 at <https://www.achpr.org/sessions/resolutions?id=381>

²⁵¹ 342 Resolution on Climate Change and Human Rights in Africa - ACHPR/Res.342(LVIII)2016 at <https://www.achpr.org/sessions/resolutions?id=381>

417 Resolution on the human rights impacts of extreme weather in Eastern and Southern Africa due to climate change - ACHPR / Res. 417 (LXIV) 2019, 14 May 2019

<https://www.achpr.org/sessions/resolutions?id=441>

457 Resolution on the Renewal of the Mandate of the Working Group on Economic, Social and Cultural Rights in Africa and Appointment of its Chairperson and Members - ACHPR/Res. 457 (LXVI) 2020, 7 August 2020

<https://www.achpr.org/sessions/resolutions?id=488>

²⁵² 491 Resolution on Climate Change and Forced Displacement in Africa - ACHPR/Res. 491 (LXIX)2021, 5 Dec 2021, <https://www.achpr.org/sessions/resolutions?id=523>

In May 2017, the Commission adopted State Reporting Guidelines and Principles on Articles 21 And 24 of the African Charter relating to Extractive Industries, Human Rights and the Environment.²⁵³ The Guidelines are for State reporting under Article 62 of the African Charter. Although they do not deal directly with climate change, they are of interest for their elaboration of the content of article 24 of the Charter, which is relevant to climate change.²⁵⁴

4.2 Asia

4.2.1 Association of South East Asian Nations (ASEAN) Intergovernmental Commission on Human Rights

The ASEAN Human Rights Declaration²⁵⁵ and the ASEAN Intergovernmental Commission on Human Rights²⁵⁶ provide entry points to address the relationship between human rights and climate change in the member states of ASEAN.²⁵⁷ In addition to a broad range of civil and political rights, economic, social and cultural rights and the right to development mirroring those articulated in UN instruments, the Declaration recognizes a right to a safe, clean and sustainable environment in article 28.

28. Every person has the right to an adequate standard of living for himself or herself and his or her family including:

f. The right to a safe, clean and sustainable environment.

Article 35 on the right to development stipulates that, “The right to development should be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations.”

The ASEAN Intergovernmental Commission on Human Rights has considered climate change at numerous workshops,²⁵⁸ and its five-year workplan for 2021-2025

²⁵³ <https://www.achpr.org/presspublic/publication?id=75>

²⁵⁴ *Idem*, *Explanatory Note to the State Reporting Guidelines on the Contents of the Rights and Obligations under Articles 21 and 24 of the African Charter*. Article 24 of the Charter provides:

All peoples shall have the right to a general satisfactory environment favourable to their development.

In its article 18, the Additional Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol)provides:

(1) Women shall have the right to live in a healthy and sustainable environment.

<https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-rights-women-africa>

²⁵⁵ [https://www.asean.org/wp-content/uploads/images/resources/ASEAN%20Publication/2013%20\(7.%20Jul\)%20-%20ASEAN%20Human%20Rights%20Declaration%20\(AHRD\)%20and%20Its%20Translation.pdf](https://www.asean.org/wp-content/uploads/images/resources/ASEAN%20Publication/2013%20(7.%20Jul)%20-%20ASEAN%20Human%20Rights%20Declaration%20(AHRD)%20and%20Its%20Translation.pdf) or <https://asean.org/asean-human-rights-declaration/>

²⁵⁶ <https://aichr.org/>

²⁵⁷ Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

²⁵⁸ Report of the ASEAN Intergovernmental Commission on Human Rights Workshop on Human Rights, Environment and Climate Change, 13-15 September 2014, Yangon, Myanmar at <https://aichr.org/wp-content/uploads/2018/10/Report> -

envisaged a consultation on human rights and climate change in 2021 and initiatives to share best practices in addressing human rights issues on mitigating the impact of climate change.²⁵⁹

4.2.2 Pacific Islands Forum^{260 261}

The Pacific Islands Forum was active in the efforts to establish the Human Rights Council's Special Rapporteur on the promotion and protection of human rights in the context of climate change.²⁶²

4.3 Europe

4.3.1 Europe Council of Europe

The Council of Europe system for the protection of human rights has through the European Court of Human Rights (ECtHR)²⁶³ and the European Committee on Social Rights²⁶⁴ developed a substantial body of jurisprudence on the relationship of human rights to environmental protection. Although the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR)²⁶⁵ and the *European Social Charter* (ESC)²⁶⁶ do not expressly guarantee a right to a healthy environment, their provisions have been interpreted to indirectly offer protection with regards to environmental matters through the case-law of the European Court of Human Rights (ECtHR) and the European Committee on Social Rights (ECSR).²⁶⁷

[AICHR Workshop on Human Rights Environment and Climate Change September 2014.pdf](#); Workshop on the Implementation of Human Rights Obligations Relating to the Environment and Climate Change, 26 – 27 September 2015 Mandalay, Myanmar at https://aichr.org/wp-content/uploads/2018/10/Report_-_AICHR_Workshop_on_the_Implementation_of_Human_Rights_Obligations_Relating_to_the_Environment_and_Climate_Change_September_2015.pdf; AICHR Workshop on Human Rights, Environment, and Climate Change, 8-10 June 2021 at <https://aichr.org/wp-content/uploads/2021/08/FINAL-AICHR-Annual-Report-2021-adopted-at-the-Special-Meeting-1-2021-26-July-2021.docx.pdf>, p.9. See also: Report of the ASEAN Intergovernmental Commission on Human Rights Workshop on Rights-Based Approach to Regional Management Strategy for an Effective Environmental Impact Assessment, 29-30 October 2017 Yangon, Myanmar, at https://aichr.org/wp-content/uploads/2019/04/Report-AICHR-3rd-Environment-Workshop_Yangon_2017.pdf

²⁵⁹ Five-Year Work Plan of the AICHR 2021-2025 at https://aichr.org/wp-content/uploads/2020/10/AICHR-FYWP-2021-2025-approved-at-53rd-AMM_for-web.pdf. It is, however, noteworthy that ASEAN's detailed State of Climate Change Report published in October 2021 makes no reference to human rights; at <https://asean.org/wp-content/uploads/2021/10/ASCCR-e-publication-Final-12-Oct-2021.pdf>.

²⁶⁰ <https://www.forumsec.org/>

²⁶¹ <https://www.forumsec.org/security/>

²⁶² <https://www.ciel.org/news/ministers-of-the-pacific-islands-forum-join-the-growing-chorus-calling-for-a-new-un-special-rapporteur-on-human-rights-and-climate-change/>

²⁶³ <https://www.echr.coe.int/Pages/home.aspx?p=home>

²⁶⁴ <https://www.coe.int/en/web/european-social-charter/european-committee-of-social-rights>

²⁶⁵ <https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c=>

²⁶⁶ The European Social Charter at <https://www.coe.int/en/web/european-social-charter>.

²⁶⁷ Council of Europe, Manual on Human Rights and the Environment (3rd edition), 2022 at <https://rm.coe.int/manual-environment-3rd-edition/1680a56197>. See also: European Court of Human Rights, Factsheet on Environment and the European Convention on Human Rights at https://www.echr.coe.int/Documents/FS_Environment_ENG.pdf; <https://www.coe.int/en/web/impact-convention-human-rights/human-rights-and-the-environment>; and <https://www.coe.int/en/web/portal/human-rights-environment>

The Court and the Committee have emphasized the evolutive nature the Convention and the Charter as living instruments.

The ECtHR has identified that issues related to the environment may violate an individuals' the right to life (Article 2), the prohibition of torture (Article 3), the right to a fair trial and to have access to a court (Article 6), the right to respect of private and family life as well as the home (Article 8), the freedom of expression (Article 10), the freedom of assembly and association (Article 11), and the right to an effective remedy (Article 13) and the right to the peaceful enjoyment of one's possessions (Article 1 of Protocol No. 1).

The ESC had determined that failure by States to avoid or reduce deterioration of the environment may amount to non-compliance with their obligations to fulfil particular social rights under the Charter. Such rights include, *inter alia*, the right to just conditions of work (Article 2), the right to safe and healthy working conditions (Article 3), the right to protection of health (Article 11), and the right to housing (Article 31). Article 11 of the Charter, recognises that "everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable". The Committee has interpreted the right to health as including the right to a "healthy environment" and therefore requires States, when submitting their periodic reports, to identify measures taken with a view to ensuring such an environment for individuals.²⁶⁸

Through its Drafting Group on Human Rights and Environment,²⁶⁹ the Council of Europe's Steering Committee for Human Rights (CDDH)²⁷⁰ is working on a draft Committee of Ministers' recommendation on human rights and the environment, which will address climate change and other environmental challenges.

Although the ECtHR has not addressed climate change to date, as of March 2022 it has three pending cases that will require it to rule on the applicability of provisions of the ECHR to government responses to climate change. In *Duarte Agostinho and Others v. Portugal and 32 Other States*,²⁷¹ the applicants, four children and two young adults, allege breach of the ECHR by the failure of the 33 defendant States to comply with their commitments under the Paris Convention to limit climate change. The case raises issues under article 1 (jurisdiction), 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 8 (right to respect for private and family life), 14 (prohibition of discrimination) and 34 (individual applications) of the ECHR, and under Article 1 (protection of property) of Protocol No. 1 to the Convention. In *Verein Klima Seniorinnen Schweiz and Others v. Switzerland*²⁷² the application raises issues under articles 2 (right to life), 6 (right to a fair trial – access to a court), 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the

²⁶⁸ *Marangopoulos Foundation for Human Rights (MFHR) v. Greece* (Decision on the Merits) (6 December 2006), ECSR Complaint No. 30/2005, para. 195 at <https://hudoc.esc.coe.int/eng/?i=cc-30-2005-dmerits-en>. Although this decision cites the UNFCCC and the Kyoto Protocol, it addresses harm to the right to health caused by air pollution rather than by climate change.

²⁶⁹ <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation/environment-and-human-rights>

²⁷⁰ <https://www.coe.int/en/web/human-rights-intergovernmental-cooperation>

²⁷¹ <https://hudoc.echr.coe.int/eng#%7B%22appno%22:%5B%2239371/20%22%5D,%22itemid%22:%5B%22002-13055%22%5D%7D>

²⁷² <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22002-13212%22%5D%7D>

ECHR. There are also questions of standing related to the victim status of the applicants, who are an association under Swiss law for the prevention of climate change and four elderly women. In *Greenpeace Nordic and Others v. Norway*²⁷³ the applicants, two NGOs and six individuals, allege that by issuing new licenses for oil and gas exploration in the Barents Sea, the Norwegian government has violated their rights under Articles 2 (right to life), 8 (right to respect for private and family life), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the ECHR. In a fourth application to the ECtHR, *Mex M. v. Austria*,²⁷⁴ an Austrian citizen with a temperature-dependent form of multiple sclerosis has alleged that through inaction on the climate crisis, the Austrian government has violated his rights under articles 2 (right to life) and 8 (respect for private and family life) of the ECHR and has failed to provide an effective remedy in violation of article 13 (right to an effective remedy).

There is no information available about when the ECtHR will decide these cases, but it is reasonable to expect that its decisions in these cases will make an important contribution to clarifying the relationship between human rights and climate change in international human rights law. The European Network of National Human Rights Institutions has made a third party intervention in the *Verein Klima Seniorinnen Schweiz and Others v. Switzerland* case.²⁷⁵

4.3.2 OSCE Office for Democratic Institutions and Human Rights

Although the OSCE provides a platform for political dialogue on risks associated with climate change, and various OSCE meetings and fora offer the venue for addressing climate change through the lens of a wide range of issues, such as disaster risk reduction, water diplomacy, energy, and sustainable cities,²⁷⁶ its Office for Democratic Institutions and Human Rights has not addressed the relationship between human rights and climate change.

4.3.3 European Union

Under Article 191 of the Treaty on the Functioning of the European Union, combating climate change is an explicit objective of EU environmental policy.²⁷⁷ The EU has

²⁷³ <https://hudoc.echr.coe.int/fre#%7B%22itemid%22%3A%5B%22001-214943%22%5D%7D>

²⁷⁴ <http://climatecasechart.com/climate-change-litigation/non-us-case/mex-m-v-austria/>

²⁷⁵ ENNHRI, Written observations in application no. 53600/20, *Verein Klimaseniorinnen Schweiz et autres c. la Suisse* at <https://ennhri.org/wp-content/uploads/2021/09/Third-Party-Intervention-Klimaseniorinnen-website.pdf>. See also: ENNHRI, Climate Change and Human Rights in the European Context, May 2021, at http://ennhri.org/wp-content/uploads/2021/05/ENNHRI-Paper-Climate-Change-and-Human-Rights-in-the-European-Context_06.05.2020.pdf

ENNHRI, Third Party Interventions Before the European Court of Human Rights, October 2020, at <http://ennhri.org/wp-content/uploads/2020/10/Third-Party-Interventions-Before-the-European-Court-of-Human-Rights-Guide-for-NHRIs.pdf>

²⁷⁶ <https://www.osce.org/occea/446296>

²⁷⁷ Article 191 (1)

Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

implemented and formulated climate policies and strategies to tackle climate change. It is committed to ensuring the successful implementation of the Paris Agreement and implementing the EU's Emissions Trading System.

The *EU Charter of Fundamental Rights*²⁷⁸ includes in Article 37 (Environmental protection) the principle that:

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

While the Charter lays down the duties of public authorities in relation to environmental integration in policymaking and implementation, it does not provide the basis for an individually justiciable right to environmental protection, or to an environment of any particular quality.²⁷⁹

While there has been extensive climate-change-related litigation in connection with European Union measures,²⁸⁰ the decision of the European Court of Justice in *Armando Ferrão Carvalho and Others v. The European Parliament and the Council*²⁸¹ is noteworthy for how it addressed the applicability of the *EU Charter of Fundamental Rights*. The plaintiffs brought an action in the EU General Court seeking to compel the EU to take more stringent greenhouse gas emissions reductions. They argued that by requiring an insufficient reduction in greenhouse gas emissions and thereby authorising an excessive volume of emissions, the challenged EU legislation infringed their fundamental rights enshrined in the Charter articles 2 (right to life), 3 (right to the integrity of the person), 24 (rights of the child), 15 (right to engage in work), 16 (freedom to conduct a business), 17 (right to property), 20 and 21 (right to equal treatment). The General Court of the European Union determined that the plaintiffs did not have standing to challenge the impugned EU legislation as they were not sufficiently and directly affected by it. On appeal the European Court of Justice upheld the determination that the plaintiffs did not have standing. It determined that article 47 of the Charter (right to an effective remedy and to a fair trial) did not remedy that lack of standing. As the case was decided on the question of standing, the ECJ made no finding of whether the challenged legislation infringed rights under the Charter of Fundamental Rights.

4.4 The Americas

4.4.1 Inter-American Human Rights System

https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF

²⁷⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

²⁷⁹ European Union Agency for Fundamental Rights, *Applying the Charter of Fundamental Rights of the European Union in law and policymaking at national level: Guidance*, 2020, pp. 20-21.

https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-charter-guidance_en.pdf

²⁸⁰ <http://climatecasechart.com/climate-change-litigation/non-us-principle-law/eu/>

²⁸¹ <https://curia.europa.eu/juris/liste.jsf?num=T-330/18&language=en> and <https://curia.europa.eu/juris/liste.jsf?num=C-565/19&language=en>

The Inter-American human rights system, consisting of the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights has been seized by issues of human rights and the environment and human rights and climate change on five occasions since 2005,²⁸² when Sheila Watt-Cloutier, an Inuk woman and Chair of the Inuit Circumpolar Conference filed a petition to the IACHR seeking relief from human rights violations resulting from the impacts of climate change caused by acts and omissions of the United States.²⁸³ The Commission declined to process the petition, but subsequently allowed a special hearing in regard to the petition in 2007. Additional petitions addressing climate change have been made to the IACHR in 2013,²⁸⁴ 2019²⁸⁵ and 2021.²⁸⁶ All three remain pending.

In December 2021, the IACHR adopted Resolution No. 3/2021 on the scope of inter-American human rights obligations relevant to the climate emergency.²⁸⁷ “The purpose of th[e] resolution is to systematize the human rights obligations of States in the context of the climate crisis in order for them to make public policy decisions under a rights-based approach.” The format of the document is similar to a general comment of a UN human rights treaty body. NHRIs are specifically mentioned in the preamble.

In 1988 the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (the “Protocol Of San Salvador”) was adopted, and it entered into force in 1999.²⁸⁸ It includes article 11 on the right to a healthy environment:

1. Everyone shall have the right to live in a healthy environment and to have access to basic public services.
2. The States Parties shall promote the protection, preservation, and improvement of the environment.

The Inter-American Convention on Protecting the Human Rights of Older Persons adopted in 2015 and in force in 2017 recognizes older persons’ right to live in a healthy environment in article 25.²⁸⁹

²⁸² <http://climatecasechart.com/climate-change-litigation/non-us-jurisdiction/inter-american-system-of-human-rights/>

²⁸³ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-to-the-inter-american-commission-on-human-rights-seeking-relief-from-violations-resulting-from-global-warming-caused-by-acts-and-omissions-of-the-united-states/>

²⁸⁴ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-inter-american-commission-human-rights-seeking-relief-violations-rights-arctic-athabaskan-peoples-resulting-rapid-arctic-warming-melting-caused-emissions/>

²⁸⁵ <http://climatecasechart.com/climate-change-litigation/non-us-case/hearing-on-climate-change-before-the-inter-american-commission-on-human-rights/>

²⁸⁶ <http://climatecasechart.com/climate-change-litigation/non-us-case/petition-to-the-inter-american-commission-on-human-rights-seeking-to-redress-violations-of-the-rights-of-children-in-cite-soleil-haiti/>

²⁸⁷ IACHR, Resolution No. 3/2021, Climate Emergency: Scope of Inter-American Human Rights Obligations, 31 December 2021 at: https://www.oas.org/en/iachr/decisions/pdf/2021/resolucion_3-21_ENG.pdf.

²⁸⁸ OAS TS No. 69, at <http://www.oas.org/juridico/English/Treaties/a-52.html>.

²⁸⁹ https://www.oas.org/en/sla/dil/inter_american_treaties_A-70_human_rights_older_persons.asp

Older persons have the right to live in a healthy environment with access to basic public services. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, inter alia:

- a. To foster the development of older persons to their full potential in harmony with nature;
- b. To ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others.

Article 19 of the American Declaration on the Rights of Indigenous Peoples provides that indigenous peoples “have the right to live in harmony with nature and to a healthy, safe, and sustainable environment, essential conditions for the full enjoyment of the right to life, to their spirituality, worldview and to collective well-being.”²⁹⁰

In 2017 the IACHR established the Office of the Special Rapporteur on Economic, Social, Cultural and Environmental Rights of the Inter-American Commission on Human Rights (IACHR).²⁹¹

The advisory opinion of the Inter-American Court of Human Rights (IACtHR) in response to a request by Colombia about state environmental obligations in the context of the protection of the rights to life and to personal integrity in articles 4(1) and 5(1) of the American Convention on Human Rights is a landmark that provides important guidance relevant to work on human rights and climate change in the Americas and beyond.²⁹² There the Court determined that the “jurisdiction” under which parties to the American Convention are obligated to ensure to all persons the free and full exercise of rights is not limited to the national territory of a state party but contemplates circumstances in which the extraterritorial conduct of a State constitutes an exercise of its jurisdiction.²⁹³ A state party is responsible not only for acts and omissions within its territory, but also for those within its territory that could have effects on the territory or inhabitants of another State.²⁹⁴ This is especially important in the context of climate change. The American Convention also obliges state parties to act to prevent eventual human rights violations, and the obligation of prevention applies to damages that may occur within or outside the territory of the State of origin.²⁹⁵ The Court concluded that, in order to respect and ensure the rights to life and integrity of the persons subject to their jurisdiction, States have the

²⁹⁰ American Declaration on the Rights of Indigenous Peoples, adopted at the third plenary session of the OAS General Assembly held on June 15, 2016, AG/RES. 2888 (XLVI-O/16) at <https://www.iitc.org/wp-content/uploads/American-Declaration-on-Rights-of-Indigenous-Peoples-En.pdf>.

²⁹¹ <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/r/DESCA/default.asp>

²⁹² Advisory Opinion Oc-23/17 of November 15, 2017, Requested By The Republic Of Colombia, The Environment And Human Rights (State Obligations in Relation to the Environment in the Context of the Protection and Guarantee of the Rights to Life and to Personal Integrity: Interpretation and Scope of Articles 4(1) and 5(1) in Relation to Articles 1(1) and 2 of the American Convention on Human Rights) at https://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf

²⁹³ Advisory Opinion Oc-23/17 of November 15, 2017 at para. 78. This reasoning was adopted by the UN Committee on the Rights of the Child in its views on five communications related to climate change under the CRC Optional Protocol on a communications procedure. See above at footnotes 88 to 92.

²⁹⁴ Idem, para. 94.

²⁹⁵ Idem, para. 133.

obligation to prevent significant environmental damage, within or outside their territory, and to that end must regulate, supervise and monitor activities within their jurisdiction that could produce significant environmental damage; conduct environmental impact assessments when there is a risk of significant environmental damage; prepare a contingency plan to establish safety measures and procedures to minimize the possibility of major environmental accidents; and mitigate any significant environmental damage that may have occurred.^{296 297}

The Comisión Nacional de los Derechos Humanos of Mexico submitted an amicus brief to the IACtHR in connection with its elaboration of the advisory opinion on human rights and the environment.²⁹⁸

The United Nations Economic Commission for Latin America and the Caribbean (ECLAC) has prepared detailed guidance on contributions by and for Latin America and the Caribbean on climate change and human rights. It includes information that is not easily accessible elsewhere, such as express references to human rights in Paris Agreement nationally determined contributions, references to climate change in the constitutions, and references to human rights in climate legislation of Latin American and Caribbean countries.²⁹⁹

4.5 Middle East and North Africa

4.5.1 [Arab Permanent Committee on Human Rights]

4.6 Other International Organisations

4.6.1 Commonwealth Forum of National Human Rights Institutions

The Commonwealth Forum of National Human Rights Institutions is a member-led network of national human rights institutions, ombudsmen, and public defenders that protects, promotes and advances human rights of the 2.4 billion Commonwealth citizens in countries from the Americas and Europe, to Africa, Asia, and the Pacific.³⁰⁰ Membership of the Commonwealth Forum is open to any national human

²⁹⁶ Idem, para. 242 and pp. 93-94.

²⁹⁷ United Nations Economic Commission for Latin America and the Caribbean, Climate Change and Human Rights: Contributions by and for Latin America and the Caribbean, 2019, pp. 51-52 at https://repositorio.cepal.org/bitstream/handle/11362/44971/1/S1900999_en.pdf

²⁹⁸ At https://www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc_2017_028.pdf and https://www.corteidh.or.cr/sitios/observaciones/colombiaoc23/38_cndh_mex.pdf and CNDH press release 158/2015 of 4 July 2015 at <https://cdhcm.org.mx/wp-content/uploads/2015/07/boletin1582015.pdf>. See also: https://corteidh.or.cr/amicus_curiae.cfm.

²⁹⁹ United Nations Economic Commission for Latin America and the Caribbean, Climate Change and Human Rights: Contributions by and for Latin America and the Caribbean, 2019 at https://repositorio.cepal.org/bitstream/handle/11362/44971/1/S1900999_en.pdf and https://repositorio.cepal.org/bitstream/handle/11362/44970/4/S1901157_es.pdf. See also: OAS, Climate Change A Comparative Overview of the Rights Based Approach in the Americas, 2016 at http://www.oas.org/en/sedi/dsd/docs/climate_change.pdf and OAS and ParlAmericas, A Comparative Overview of Legislative and Executive Responses in the Americas, 2017 at <https://www.parlAmericas.org/uploads/documents/A-Comparative-Overview-of-Legislative-and-Executive-Responses-in-the-Americas.pdf>.

³⁰⁰ <https://cfnhri.org/>

rights institution or other national accountability mechanisms with a human rights mandate within the Commonwealth.

At the Commonwealth Forum's meeting in St. Julian's, Malta on 25 November 2015, the members Commonwealth Forum adopted the St Julian Declaration on Climate Justice.³⁰¹ The Declaration sets out a range of commitments of Commonwealth NHRIs to address human rights and climate change.

4.6.2 Climate Vulnerable Forum (CVF)

The Climate Vulnerable Forum is an international partnership of 55 countries highly vulnerable to global warming. The Forum serves as a South-South cooperation platform for participating governments to act together to deal with global climate change.³⁰² The CVF played a leading role in the establishment of the Human Rights Council's Special Rapporteur on the promotion and protection of human rights in the context of climate change.³⁰³

5 Thematic Issues related to Human Rights and Climate Change

5.1 Procedural human rights - access to information, public participation in decision making, and access to remedies

Many of the processes established by the UNFCCC and the Paris Agreement are process heavy and call for consultations with a variety of stakeholders. These include the processes for nationally determined contributions (NDCs) and national adaptation plans (NAPs). Procedural human rights standards will be important in ensuring that these and other climate action mitigation and adaptation processes are carried out in conformity with applicable human rights obligations.

Applicable procedural human rights standards are described in principles 7, 9 and 10 of the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on *Framework principles on human rights and the environment*.³⁰⁴

Framework principle 7

States should provide public access to environmental information by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.

Framework principle 9

States should provide for and facilitate public participation in decision-making related to the environment, and take the views of the public into account in the decision-making process.

³⁰¹ <https://cfnhri.org/resources/st-julians-declaration-on-climate-justice/> The Scottish Human Rights Commission played an important role in the elaboration of the St Julian Declaration on Climate Justice.

³⁰² <https://thecvf.org/about/>

³⁰³ <https://thecvf.org/activities/program/cvfmanifestocop26> and https://thecvf.org/wp-content/uploads/2021/10/Press_release_on_special_rapporteur_121021_Formatted.pdf

³⁰⁴ A/HRC/37/59 at <https://undocs.org/en/A/HRC/37/59>

Framework principle 10

States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment.

Principle 8 is also relevant to climate action:

Framework principle 8

To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.

Principle 10 of the 1992 Rio Declaration on Environment and Development captures these procedural rights.³⁰⁵ They are elaborated in detail in the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention),³⁰⁶ which is open principally to members of the Economic Commission for Europe and States with consultative status with the Commission.³⁰⁷ The Aarhus Convention requires its parties to guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters.³⁰⁸

The procedural rights are also elaborated in the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement) open to the countries of Latin America and the Caribbean.³⁰⁹ The objective of the Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters.

For countries in other regions, the voluntary *Guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters* (the Bali Guidelines) provide general guidance on promoting the effective implementation of their commitments to Principle 10 of the 1992 Rio Declaration on Environment and Development within the framework of national legislation and processes to facilitate broad access to information, public participation and access to justice in environmental matters.³¹⁰

³⁰⁵ https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

³⁰⁶ <https://unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

³⁰⁷ The Convention allows any other State that is a Member of the United Nations to accede to the Convention with approval of the Meeting of the Parties. In 2021 the adhesion of Guinée-Bissau was approved.

³⁰⁸ <https://unece.org/environment-policy/public-participation/aarhus-convention/introduction> The United Nations Economic Commission for Europe has prepared an implementation guide for the Aarhus Convention to assist policymakers, legislators and public authorities in implementing the Convention and to assist members of the public and non-governmental organizations to exercise their rights under the Convention. *The Aarhus Convention: An Implementation Guide* (second edition), 2014 at:

https://unece.org/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf

³⁰⁹ <https://www.cepal.org/en/escazuagreement> and

https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf

³¹⁰ <https://www.unep.org/resources/publication/guidelines-development-national-legislation-access-information-public>

Within the UNFCCC process, the Action for Climate Empowerment reflects the procedural human rights, although they are not described as human rights. Two of the six elements of Action for Climate Empowerment are public access to information and public participation. (No mention is made of access to remedies.) The decision to adopt the Glasgow work programme on Action for Climate Empowerment adopted at COP26 (CMA3) notes that as part of their national programmes and activities in implementing the Convention and the Paris Agreement, and within the framework of the Glasgow work programme, Parties are encouraged to undertake a variety of activities related to public access to information and public participation.³¹¹ While the Glasgow work programme makes no mention of human rights, and its provisions fall short of the full requirements of applicable procedural human rights, it provides an entry point for raising procedural rights within UNFCCC processes at the national and international levels. That entry point is reinforced by a paragraph Glasgow Climate Pact, in which the COP and the CMA urge “Parties to swiftly begin implementing the Glasgow work programme on Action for Climate Empowerment, respecting, promoting and considering their respective obligations on human rights, as well as gender equality and empowerment of women”.³¹²

5.2 Human-Rights-Based Approaches

The GANHRI statement on *Climate Change: The role of National Human Rights Institutions* commits GANHRI and its members to bringing a human-rights-based approach to climate action. Many civil society organisations, governments and international organisations also speak about the importance of a human-rights-based approach in responding to climate change. However, there is no universal understanding of the requirements of a human-rights-based approach.

The OHCHR Fact Sheet *Frequently Asked Questions on Human Rights and Climate Change* describes elements of a human-rights-based approach.³¹³ There, the 2003 *Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies*³¹⁴ is mentioned as the basis for a human-rights-based approach. That statement of common understanding specifically refers to a human-rights-based approach to the development cooperation and development programming of UN agencies.³¹⁵ The common understanding emphasizes key human

³¹¹ Glasgow work programme on Action for Climate Empowerment, paras. 24, 28 and 29 at: https://unfccc.int/sites/default/files/resource/cma3_auv_3b_Glasgow_WP.pdf

³¹² Glasgow Climate Pact, para. 91 at

https://unfccc.int/sites/default/files/resource/cma3_auv_2_cover%20decision.pdf

³¹³ https://www.ohchr.org/Documents/Publications/FSheet38_FAQ_HR_CC_EN.pdf at pages 41-43.

³¹⁴ [https://unsdg.un.org/sites/default/files/6959-](https://unsdg.un.org/sites/default/files/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf)

[The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_a mong_UN.pdf](https://unsdg.un.org/sites/default/files/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf)

³¹⁵ See also: OHCHR, *Frequently Asked Questions on a Human-rights-based approach to Development Cooperation*, 2006 at <https://www.ohchr.org/Documents/Publications/FAQen.pdf>. United Nations Sustainable Development Cooperation Framework - Internal Guidance, 2019. The Human-rights-based approach to Development is a conceptual framework for the process of sustainable development that is normatively based on international human rights standards and principles and operationally directed to promoting and protecting human rights. Under the HRBA, the plans, policies and processes of development are anchored in a system of rights and corresponding obligations established by international law, including all civil, cultural, economic,

rights *principles*, such as: universality and inalienability, indivisibility, interdependence and interrelatedness of human rights; non-discrimination and equality; participation and inclusion; accountability and the rule of law. It identifies the following elements [as] necessary, specific, and unique to a human-rights-based approach:

- Assessment and analysis to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.
- Programmes assess the capacity of rights-holders to claim their rights, and of duty-bearers to fulfill their obligations. They then develop strategies to build these capacities.
- Programmes monitor and evaluate both outcomes and processes guided by human rights standards and principles.
- Programming is informed by the recommendations of international human rights bodies and mechanisms.

While these elements would apply to development programming, it is not clear that all of them would apply equally, without adjustment, to climate action, particularly as much climate action needs to be taken by developed countries.

Notwithstanding the widespread calls for a human-rights-based approach to climate action, there is little detailed guidance for the application of a such an approach to climate action.³¹⁶ If a human-rights-based approach is to be more than a slogan,³¹⁷ it will be important to be clear about what a human-rights-based-approach requires. There is some guidance for its application in other areas that might be adapted and developed for climate action.

A human-rights-based approach needs to address both procedural and substantive human rights standards.³¹⁸ Many of the principles enunciated by the UN Special Rapporteur on human rights and the environment in the *Framework principles on human rights and the environment*³¹⁹ are clearly relevant to defining elements of a

political and social rights, and the right to development. HRBA requires human rights principles (equality and non-discrimination, participation, accountability) to guide UN development cooperation, and focus on capacity development of both 'duty-bearers' to meet their obligations and 'rights-holders' to claim their rights. Para 19 at page 11.

At: (https://unsdg.un.org/sites/default/files/2019-10/UN-Cooperation-Framework-Internal-Guidance-Final-June-2019_1.pdf)

³¹⁶ An illustration of how human rights principles can be translated into detailed guidance can be found in: *Guidelines on Incorporating Human Rights Standards and Principles, Including Gender, in Programme Proposals for Bilateral German Technical and Financial Cooperation* at <https://www.bmz.de/resource/blob/70448/14b3b6b3fe59eab4dcc05efe266e57b4/guidelines-human-rights-bilateral-cooperation>.

³¹⁷ Sloganistic references to human-rights-based approaches will be counter-productive if human rights advocates call repeatedly on governments and others to adopt human-rights-based approaches without offering guidance on what that requires. Governments and others will simply stop listening.

³¹⁸ See section 5.1. above on procedural human rights.

³¹⁹ <https://undocs.org/A/HRC/37/59> See the entry for the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment above at section 2.2.4.1.

human rights-based approach, even though the Framework principles do not speak of a human rights-based approach.

In addition, some NHRIs have applied a human-rights-based approach in areas of activity other than climate action. The Danish Institute for Human Rights has published an *Introduction to a human-rights-based approach* for development activities.³²⁰ The Scottish Human Rights Commission has published *A human-rights-based approach relating to the care and support of older people*.³²¹ ENNHRI has published *Applying a Human-rights-based approach to Poverty Reduction and Measurement*.³²² Lessons might be drawn from these and other experiences with human rights-based approaches for application to climate action.

5.3 Human Rights Impact Assessment and Due Diligence

In the *Framework principles on human rights and the environment*, the Special Rapporteur on human rights and the environment notes that prior assessment of the possible environmental impacts of proposed projects and policies is generally required by national laws, and he describes the required elements of environmental impact assessment. Framework Principle 8 provides:

To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.³²³

The commentary to Principle 8 calls for human rights impact assessments to accompany environmental impact assessments.

To protect against interference with the full enjoyment of human rights, the assessment of environmental impacts should also examine the possible effects of the environmental impacts of proposed projects and policies on the enjoyment of all relevant rights, including the rights to life, health, food, water, housing and culture. As part of that assessment, the procedure should examine whether the proposal will comply with obligations of non-discrimination (framework principle 3), applicable domestic laws and international agreements (framework principles 11 and 13) and the obligations owed to those who are particularly vulnerable to environmental harm (framework principles 14 and 15). The assessment procedure itself must comply with human rights obligations, including by providing public information about the assessment and making the assessment and the final decision publicly available (framework principle 7),

³²⁰ An introduction to the concepts and practices of the human-rights-based approach (HRBA) to development can be found at <https://www.humanrights.dk/learning-hub/introduction-human-rights-based-approach>

³²¹ <http://careaboutrights.scottishhumanrights.com/whatisahumanrightsbasedapproach.html>

³²² <https://ennhri.org/news-and-blog/new-nhri-guide-outlines-7-principles-for-addressing-poverty-through-a-human-rights-based-approach/>

³²³ Framework principle 8, Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, A/HRC/37/58, 24 January 2018 at page 11, paras 20-22. At:

<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/FrameworkPrinciplesReport.aspx> and <https://undocs.org/en/A/HRC/37/59>.

facilitating public participation by those who may be affected by the proposed action (framework principle 9), and providing for effective legal remedies (framework principle 10).³²⁴

The Special Rapporteur also recalls the requirements of the UN Guiding Principles on Business and Human Rights for human rights due diligence.³²⁵

Business enterprises should conduct human rights impact assessments in accordance with the Guiding Principles on Business and Human Rights, which provide that businesses “should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships”, include “meaningful consultation with potentially affected groups and other relevant stakeholders”, “integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action”

Framework Principle 8 would require governments to undertake environmental and human rights impact assessment to identify climate change impacts of their policies and measures and businesses to undertake due diligence to identify climate change impacts of their activities and business relationships.³²⁶ It would also require them to undertake assessments of their mitigation and adaptation measures to combat climate change. Principle 16 of the *Framework principles on human rights and the environment* provides:

States should respect, protect and fulfil human rights in the actions they take to address environmental challenges and pursue sustainable development.³²⁷

A first step for governments towards ensuring that their climate change mitigation and adaptation measures are consistent with their human rights obligations is to evaluate the risks that such measures will have adverse effects on human rights. Human rights impact assessment offers a tool for governments to prevent human rights violations by identifying and avoiding or mitigating human rights issues during the development of policies and related implementation measures. A human rights-based approach to

³²⁴ Idem at para. 21

³²⁵ Idem at para. 22. See:

https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf and https://www.ohchr.org/Documents/Publications/HR.PUB.12.2_EN.pdf at pages 31-45. See also: OECD Guidelines for Multinational Enterprises, 2011 Edition, Part IV Human Rights, paras 41 and 45 on pages 33-34 at: <https://www.oecd.org/daf/inv/mne/48004323.pdf> and OECD Due Diligence Guidance for Responsible Business Conduct at: <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

³²⁶ In its webinar series 'Human Rights Due Diligence for Climate Change Impacts', the British Institute of International and Comparative Law (BIICL) examined business responsibility for human rights due diligence for climate change impacts. <https://www.biicl.org/publications/human-rights-due-diligence-for-climate-change-impacts-webinar-series-report> and https://www.biicl.org/documents/125_hrdd_for_climate_change_impacts_webinar_series_report_8_jan_2020.pdf.

³²⁷ Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, *Framework principles on human rights and the environment*, A/HRC/37/59, 24 January 2018 at: <https://undocs.org/en/A/HRC/37/59>.

climate action requires human rights impact assessment and human rights due diligence.³²⁸

For businesses, human rights impact assessment is often equated with the due diligence called for in the UN Guiding Principles on Business and Human Rights. However in the view of some, human rights impact assessment is only one element of the broader concept of due diligence, which includes conducting human rights impacts assessment, implementing their findings, and measuring and reporting on performance.³²⁹ In the view of others, human rights impact assessment, must be an ongoing and dynamic process with a procedure for monitoring that recommendations are implemented and ongoing review of future human rights impacts.³³⁰ Notwithstanding these different perspectives, in the end it is the substance of the process, not the name, that is important, and there will be no single one size fits all model for human rights impact assessment or due diligence.

Human rights impact assessments present numerous practical challenges. The author of one overview of human rights impact assessment suggests that the central challenge is to strike the right balance of robustness and usability. In his view, this requires using human rights standards appropriately as the basis for assessment, avoiding bureaucratisation, utilising evidence to inform the assessment, ensuring consultation, participation and transparency, and enhancing the ability of human rights impact assessments to lead to policy change.³³¹ The requirements of human rights impact assessment suggests that in most circumstances, the role of NHRIs will be to encourage and assist governments (and others) to adopt and carry out human rights impact assessment, rather than to conduct it themselves.

While there is relatively little practical guidance for governmental human rights impact assessment, there is a plethora of information available about human rights due diligence. High-level overviews can be found on the website of the UN Office of the High Commissioner for Human Rights,³³² the 2018 report to the UN General Assembly

³²⁸ This is implicit in the necessary, specific, and unique elements of the UN's human-rights-based approach to development cooperation. The Human Rights Based Approach to Development Cooperation Towards a Common Understanding Among UN Agencies at: https://unsdg.un.org/sites/default/files/6959-The_Human_Rights_Based_Approach_to_Development_Cooperation_Towards_a_Common_Understanding_among_UN.pdf.

Assessment and analysis in order to identify the human rights claims of rights-holders and the corresponding human rights obligations of duty-bearers as well as the immediate, underlying, and structural causes of the non-realization of rights.

For a national example of how the human-rights-based approach requires human rights impact assessment, see also *Guidelines on Incorporating Human Rights Standards and Principles, Including Gender, in Programme Proposals for Bilateral German Technical and Financial Cooperation* at: <https://www.bmz.de/resource/blob/70448/14b3b6b3fe59eab4dcc05efe266e57b4/guidelines-human-rights-bilateral-cooperation>.

³²⁹ BSR, *Conducting an Effective Human Rights Impact Assessment: Guidelines, Steps, and Examples*, at page 6. https://www.bsr.org/reports/BSR_Human_Rights_Impact_Assessments.pdf.

³³⁰ James Harrison, *Measuring Human Rights: Reflections on the Practice of Human Rights Impact Assessment and Lessons for the Future*, 2010, page 23 at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1706742.

³³¹ Idem, pp. 17-24.

³³² <https://www.ohchr.org/EN/Issues/Business/Pages/CorporateHRDueDiligence.aspx>.

of the Working Group on the issue of human rights and transnational corporations and other business enterprises,³³³ and the OECD Due Diligence Guidance for Responsible Business Conduct.³³⁴ The Danish Institute for Human Rights has made available on its website a wide variety of material about business human rights impact assessment and due diligence.³³⁵

Human rights impact assessment and due diligence should be relevant to the Programme of work of the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures, which has a mandate to, inter alia:

- (a) Provide a platform allowing Parties to share, in an interactive manner, information, experiences, case studies, best practices and views, and to facilitate assessment and analysis of the impact of the implementation of response measures, including the use and development of modelling tools and methodologies, with a view to recommending specific actions;
- (c) Provide concrete examples, case studies and practices in order to enhance the capacity of Parties, in particular developing country Parties, to deal with the impact of the implementation of response measures[....]³³⁶

5.4 Human Rights Defenders

GANHRI's Marrakech Declaration on "Expanding the civic space and promoting and protecting human rights defenders, with a specific focus on women: The role of national human rights institutions" expressly acknowledges defenders working on environmental and land issues and on indigenous rights.³³⁷ Many UN and civil society reports have described numerous serious human rights violations and abuses committed against environmental activists in many countries.³³⁸ The previous UN Special Rapporteur on the situation of human rights defenders devoted his 2016 report to the UN General Assembly to environmental human rights defenders.³³⁹ The current

³³³ A/73/163, 16 July 2018 at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/224/87/PDF/N1822487.pdf?OpenElement>.

³³⁴ <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

³³⁵ Human Rights Impact Assessment: Guidance and Toolbox at https://www.humanrights.dk/sites/humanrights.dk/files/media/dokumenter/udgivelser/hria_toolbox_2020/eng/dihr_hria_guidance_and_toolbox_2020_eng.pdf. See also: <https://www.humanrights.dk/business-human-rights>.

³³⁶ Modalities, work programme and functions under the Paris Agreement of the forum on the impact of the implementation of response measures Decision 7/CMA.1, FCCC/PA/CMA/2018/3/Add.1 19 March 2019 at: https://unfccc.int/sites/default/files/resource/cma2018_3_add1_advance.pdf.

³³⁷ Para 10 at: https://ganhri.org/wp-content/uploads/2019/11/Marrakech-Declaration_ENG_-12102018-FINAL.pdf.

³³⁸ Final warning: death threats and killings of human rights defenders, Report of the Special Rapporteur on the situation of human rights defenders, Mary Lawlor, A/HRC/46/35, 24 December 2021 at: <https://undocs.org/A/HRC/46/35>. Defending Tomorrow: The climate crisis and threats against land and environmental defenders, 29 July 2020 at: <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>. Last Line of Defence: The industries causing the climate crisis and attacks against land and environmental defenders, 13 September 2021 at: <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence/>.

³³⁹ Report of the Special Rapporteur on the situation of human rights defenders, A/71/281, 3 August 2016 <https://undocs.org/A/71/281>

Special Rapporteur on the situation of human rights defenders has signaled that defenders working on the climate crisis and working in isolated and remote areas are among the priority areas for her future activities.³⁴⁰

In 2019 the Human Rights Council adopted a resolution on *Recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development*.³⁴¹

In Article 3(8), the Aarhus Convention includes a provision that requires each party to “ensure that persons exercising their rights in conformity with the provisions of th[e] Convention shall not be penalized, persecuted or harassed in any way for their involvement.” Further to this provision the parties to the Convention have established a Special Rapporteur on environmental defenders under the Convention to provide a rapid response to alleged violations against such persons. The Rapporteur’s role is to take measures to protect any person experiencing, or at imminent threat of penalization, persecution, or harassment for seeking to exercise their rights under the Aarhus Convention.³⁴²

The Escazú Agreement is the first binding instrument that includes specific provisions for the protection and promotion of environmental human rights defenders. It obliges State parties to guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection.³⁴³ It also requires States parties to “take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters”.³⁴⁴

5.5 Climate Change Litigation and Amici Briefs

The *Global Climate Litigation Report 2020 Status Review*³⁴⁵ defines “‘climate change litigation’ to include cases that raise material issues of law or fact relating to climate change mitigation, adaptation, or the science of climate change” and observes that such cases have been brought before a wide range of national and international administrative, judicial, and other adjudicatory bodies.³⁴⁶ It identifies diverse branches

³⁴⁰ Report of the Special Rapporteur on the situation of human rights defenders to the UN General Assembly, 16 July 2020, para. 7(b) at: <https://undocs.org/en/A/75/165>.

³⁴¹ A/HRC/RES/40/11. 21 March 2019

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/088/48/PDF/G1908848.pdf?OpenElement>

³⁴² UNECE, Rapid response mechanism to protect environmental defenders established under the Aarhus Convention, 22 October 2021 at: <https://unece.org/media/press/361413>. Decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, ECE/MP.PP/2021/CRP.8, 21 October 2021 at https://unece.org/sites/default/files/2021-11/ECE.MP_PP_2021_RRM_CRP.8_3.pdf.

³⁴³ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, article 4(6) at: https://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf.

³⁴⁴ Idem, article 9.

³⁴⁵ United Nations Environment Programme and Sabin Center for Climate Change Law, Executive Summary, Global Climate Litigation Report 2020 Status Review, 2020 at p. 6.

<https://wedocs.unep.org/bitstream/handle/20.500.11822/34818/GCLR.pdf?sequence=1&isAllowed=y>

³⁴⁶ The Sabin Center for Climate Change Law at Columbia Law School maintains a website that provides two databases of climate change litigation, one for U.S. climate change litigation and one for non-U.S. cases. The U.S. Climate Change Litigation database is a joint project of the Sabin Center and the law firm Arnold & Porter.

of climate litigation, one of which focusses on relying on fundamental and human rights enshrined in international law and national constitutions *to compel climate action*.

In the face of inadequate governmental and business measures to meet the challenges of climate change, there has been increasing recourse to national and international judicial and quasi-judicial bodies, by a range of litigants seeking “relief through the enforcement of existing climate laws; integration of climate action into existing environmental, energy, and natural resources laws; clear definitions of fundamental climate rights and obligations; and compensation for climate harms.”³⁴⁷ Success in litigation in a number of countries and fora provide sound reasons to believe that climate change litigation can catalyse legal, policy and social change and compel governments and businesses to pursue more ambitious climate change mitigation and adaptation goals.³⁴⁸

NHRIs have been active in contributing to climate change litigation and in the case of the Philippines Commission on Human Rights in conducting a precedential international enquiry that has been described as holding promise to establish the basis for follow-on litigation to hold major corporations accountable for their contributions to damage caused by climate change.³⁴⁹ Examples of NHRI third party (amicus) interventions in climate change litigation include the following:

- Mexican National Commission for Human Rights amicus curiae brief filed before the Inter-American Court of Human Rights on the occasion of the Advisory Opinion of the State of Colombia, 19 January 2017.³⁵⁰
- Global Alliance of National Human Rights Institutions (GAHNRI) - Asia Pacific Forum for National Human Rights Institutions (APF) Amicus Brief: Human Rights and Climate Change in the “Carbon Majors” National Inquiry on Climate Change by the Philippines Commission on Human Rights.³⁵¹
- Written submission from the Norwegian National Human Rights Institution to shed light on public interests in Case No. 20-051052SIVHRET Föreningen Greenpeace Norden & Natur og Ungdom v. The Government of Norway (Supreme Court of Norway)³⁵²

It tracks developments in litigation and administrative proceedings related to climate change. The Non-U.S. Climate Litigation database was created in 2011 and is updated regularly. Entries in the database include important documents such as claimant applications, defendant responses, third party interventions and judgements. At: <http://climatecasechart.com/climate-change-litigation/>

³⁴⁷ Global Climate Litigation Report 2020 Status Review, 2020 at p. 4.

³⁴⁸ For example, see: Urgenda Foundation v. State of the Netherlands at <http://climatecasechart.com/climate-change-litigation/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/>

³⁴⁹ Philippines Commission on Human Rights, National Inquiry on Climate Change, <https://Chr.Gov.Ph/Nicc-2/>.

Although the Commission has not yet published the final report of the Inquiry as of 1 March 2022, it has established a public repository of evidence received and a mechanism for monitoring of climate-impacted areas in the Philippines. Climate Change Observatory at: <https://chr-observatories.uwazi.io/page/e4igfcf46wp>

³⁵⁰ https://www.cndh.org.mx/sites/default/files/doc/OtrosDocumentos/Doc_2017_028.pdf

³⁵¹ <https://www.asiapacificforum.net/resources/amicus-brief-human-rights-and-climate-change/>

³⁵² <https://www.klimasøksmål.no/wp-content/uploads/2020/11/Amicus-Curiae-from-the-Norwegian-National-Human-Rights-Institution.pdf>

- European Network of National Human Rights Institutions (ENNHRI), Written observations in application no. 53600/20 Verein Klimaseniorinnen Schweiz et autres c. la Suisse (European Court of Human Rights)³⁵³

The European Network of National Human Rights Institutions has also prepared guidance for third party interventions before the European Court of Human Rights.

- Third Party Interventions Before the European Court of Human Rights, Guide for National Human Rights Institutions, October 2020³⁵⁴
- Procedure for Third Party Interventions before the European Court of Human Rights Updated: September 2020³⁵⁵

The Asian Development Bank has published a series of four documents about climate change litigation focussed on countries in Asia and the Pacific.³⁵⁶

- *Climate Change, Coming Soon to a Court Near You: Report Series Purpose and Introduction to Climate Science*, December 2020.³⁵⁷ This report guides readers through some of the basics about climate change as a defining challenge of our time. It further explains how judges from Asia and the Pacific contribute to climate governance and litigation.
- *Climate Change, Coming Soon to a Court Near You: Climate Litigation in Asia and the Pacific and Beyond*, December 2020.³⁵⁸ This report contains a comprehensive review of the growing number and variety of climate lawsuits in Asia and the Pacific. It underscores the unique flavor and voice of regional jurisprudence and compares it with global approaches.
- *Climate Change, Coming Soon to a Court Near You: National Climate Change Legal Frameworks in Asia and the Pacific*, December 2020.³⁵⁹ The report provides holistic syntheses of the climate legal and policy frameworks of 32 countries in Asia and the Pacific and discusses key legislative trends and climate-relevant constitutional rights.
- *Climate Change, Coming Soon to a Court Near You: International Climate Change Legal Frameworks*, December 2020.³⁶⁰ The report explores the Paris

³⁵³ <https://ennhri.org/wp-content/uploads/2021/09/Third-Party-Intervention-Klimaseniorinnen--website.pdf>
See also: European National Human Rights Institutions Intervene in a High-Profile Climate Case, 3 December 2021, <https://strasbourgobservers.com/2021/12/03/european-national-human-rights-institutions-intervene-in-a-high-profile-climate-case/#more-7689>.

³⁵⁴ <https://ennhri.org/news-and-blog/new-nhri-guide-on-third-party-interventions-before-the-european-court-of-human-rights/> or <https://ennhri.org/wp-content/uploads/2020/10/Third-Party-Interventions-Before-the-European-Court-of-Human-Rights-Guide-for-NHRIs.pdf>

³⁵⁵ <https://ennhri.org/wp-content/uploads/2020/10/Procedure-for-Third-Party-Interventions-before-the-European-Court-of-Human-Rights.pdf>

³⁵⁶ These publications can be downloaded free of charge as PDF documents or e-publications.

³⁵⁷ <https://www.adb.org/publications/series/climate-change-coming-to-court>

³⁵⁸ <https://www.adb.org/publications/purpose-introduction-climate-science>

³⁵⁹ <https://www.adb.org/publications/climate-litigation-asia-pacific>

³⁵⁹ <https://www.adb.org/publications/national-climate-change-legal-frameworks-asia-pacific>

³⁶⁰ <https://www.adb.org/publications/international-climate-change-legal-frameworks>

Agreement and the international legal framework that supports global and domestic climate action. It highlights the crucial role of judges in holding their governments accountable for their climate pledges.

5.6 National Mechanisms for Reporting and Follow-Up

A growing number of national governments are establishing National Mechanisms for Reporting and Follow-up (NMRFs) to coordinate and prepare reports to and to coordinate follow-up on their engagement with the international and regional human rights mechanisms (including UN treaty bodies, the Universal Periodic Review and the Special Procedures). Many NMRFs also have responsibilities related to the Sustainable Development Goals. NMRFs perform these functions in coordination with government ministries, specialized state bodies, parliaments and the judiciary. National human rights institution and civil society often have a consultative role.

As government structures, the membership and structure of NMRFs will be determined by the relevant by the responsible government ministries. Through their consultative role, NHRIs could advocate for the inclusion of national structures responsible for climate action with the aim of addressing links between human rights obligations, SDG realisation and relevant climate change mitigation and adaptation measures.³⁶¹

5.7 Climate action education

Action for Climate Empowerment (ACE) is the term adopted by the United Nations to denote work under Article 6 of the UNFCCC and Article 12 of the Paris Agreement. The over-arching goal of ACE is to empower all members of society to engage in climate action, through education, training, public awareness, public participation, public access to information, and international cooperation on these issues.³⁶² Three of the six elements of Action for Climate Empowerment are education, training and public awareness. The decision to adopt the Glasgow work programme on Action for Climate Empowerment adopted at COP26 (CMA3) encourages Parties to the UNFCCC and the Paris Agreement to undertake a variety of activities related to education, training and public awareness.³⁶³

A relatively detailed overview of human rights and related considerations relevant to the Action for Climate Empowerment can be found in a submission from OHCHR and eight other UN entities to the Subsidiary Body for Implementation with

³⁶¹ OHCHR, National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms, 2016.
https://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf. Further to Human Rights Council resolution 42/30 OHCHR is conducting five regional consultations between 24 November and 3 December 2021 "to exchange experiences and good practices relating to the establishment and development of national mechanisms for implementation, reporting and follow-up, and their impact on effective implementation of human rights obligations and commitments, in consultation with all relevant stakeholders." The results of the consultations, which will be reported to the fiftieth session of the Human Rights Council, should provide a better basis for assessing whether NMRFs could provide a channel for drawing operational connections between climate action and human rights at the national level.

³⁶² <https://unfccc.int/topics/education-youth/the-big-picture/what-is-action-for-climate-empowerment>

³⁶³ Glasgow work programme on Action for Climate Empowerment, paras. 24-27 at:
https://unfccc.int/sites/default/files/resource/cma3_auv_3b_Glasgow_WP.pdf

recommendations and views on future work to enhance Action for Climate Empowerment.³⁶⁴ A United Nations Alliance of Climate Change: Education, Training and Public Awareness consisting of fourteen UN entities has as one of its objectives to support Parties to the UNFCCC in their efforts to design, initiate and undertake activities related to climate change education, training, public awareness, public participation and public access to information.³⁶⁵ A list of designated national focal points for Action for Climate Empowerment is posted on the UNFCCC website.³⁶⁶

Climate change is mentioned as one of many learning competencies The *UN Plan of action for the fourth phase (2020–2024) of the World Programme for Human Rights Education* mentions.³⁶⁷

UNESCO's Strategy for Action on Climate Change (2018-2021) consolidates UNESCO's work and joins it with that of other UN bodies with the aim of helping UNESCO's member states to mitigate and adapt to climate change, to educate for sustainable development in the context of climate change, to assess the risks of natural disasters due to climate change, and to monitor the effects of climate change on UNESCO designated sites, such as World Heritage sites, biosphere reserves and UNESCO Global Geoparks. Over 30 UNESCO programmes in the sciences, education, culture and communication contribute to creating knowledge, educating and communicating about climate change, and to understanding the ethical implications for present and future generations.³⁶⁸

6 Role of GANHRI

6.1 Information collection and sharing

6.2 Strategy development

6.3 Coordination

6.4 Representation

³⁶⁴ Submission of 21 February 2020 at

<https://www4.unfccc.int/sites/SubmissionsStaging/Documents/202002210212---OHCHR,%20ILO,%20UN%20Women,%20UNESCO,%20UNEP,%20ECLAC,%20UNICEF%20and%20UNECE%20Joint%20Submission%20on%20ACE.pdf>

³⁶⁵ Members of the UN Alliance on Climate Change Education, Training and Public Awareness at

<https://unfccc.int/members-of-the-un-alliance-on-climate-change-education-training-and-public-awareness>

³⁶⁶ They are listed at: <https://unfccc.int/topics/education-and-outreach/focal-points-and-partnerships/ace-focal-points>.

³⁶⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/227/36/PDF/G1922736.pdf?OpenElement>

adopted by Human Rights Council resolution 42/7 of 26 September 2019. World Programme for Human Rights Education: adoption of the plan of action for the fourth phase.

³⁶⁸ UNESCO, Addressing Climate Change at: <https://en.unesco.org/themes/addressing-climate-change>.

6.5 GANHRI Caucus on Human Rights and Climate Change³⁶⁹

GANHRI has facilitated the establishment of a Caucus of NHRIs interested in working together on human rights and climate change. The Caucus is a forum where NHRIs from all four regions have an opportunity to discuss, debate, share knowledge and identify and collect experiences, as well as coordinate actions and activities.

The Objectives of the Caucus are:

1. To promote cooperation and information sharing among NHRIs across all regions through the exchange of good practices and lessons learned on human rights and climate change.
2. To contribute to the achievement of the goals of the GANHRI Strategic Plan (2020-2022) in the thematic area of human rights and climate change, including through supporting GANHRI's implementation of activities with UNEP cooperation with other UN partners.
3. To substantially contribute to GANHRI's engagement and advocacy on Climate Change at the global level, in particular coordinate GANHRI's and NHRIs' engagement in the COP [...] meeting and other relevant thematic meetings.

6.6 Regional Networks

6.6.1 Network of African National Human Rights Institutions (NANHRI)

6.6.2 Network of National Human Rights Institutions of the Americas (RINDHCA)

6.6.3 Asia Pacific Forum of National Human Rights Institutions (APF)

6.6.4 European Network of National Human Rights Institutions (ENNHRI)

7 GANHRI Membership Activities and Contacts

7.1 Caucus on Human Rights and Climate Change

7.2 GANHRI Members' climate change focal persons

8 Glossary

[This part will include links to existing glossaries, such as those included in reports of the Intergovernmental Panel on Climate Change and the UNFCCC website. A shorter glossary could also be developed for the *Practical Guidance*.

Glossary of climate change acronyms and terms at <https://unfccc.int/process-and-meetings/the-convention/glossary-of-climate-change-acronyms-and-terms>

Glossary of the IPCC Synthesis Report 5 at https://www.ipcc.ch/site/assets/uploads/2019/01/SYRAR5-Glossary_en.pdf]

³⁶⁹ <https://ganhri.org/ganhri-and-climate-change/>

9 ANNEX I: Additional Learning Resources

9.1 Training courses and materials

A variety of training courses and training materials about climate action is available on line. The following training portals include material related to climate change.

9.1.1 One UN Climate Change Learning Partnership (UN CC:Learn)

The UN CC:Learn knowledge-sharing platform provides a 'one-stop-shop' for accessing climate change learning resources and services offered by the UN system. The One UN Climate Change Learning Partnership behind it is a joint initiative of more than 30 multilateral organizations aimed at helping countries to achieve climate change action both through general climate literacy and applied skills development. UN CC:Learn provides strategic advice and quality learning resources to help people, governments and businesses to understand, adapt, and build resilience to climate change.

<https://unccelearn.org/?lang=en>
<https://unccelearn.org/?lang=es>
<https://unccelearn.org/?lang=fr>

Among the course offered by UN CC:Learn is *An Introduction to Climate Change and Human Rights*.³⁷⁰ This general course is intended for everyone with an interest in learning more about climate change and human rights; including policy-makers, students, experts, activists and academics. The course provides tools to better understand, discuss, participate, and act on climate change as well as human rights challenges and opportunities.

9.1.2 The United Nations Information Portal on Multilateral Environmental Agreements (InforMEA learning)

This portal offers a variety of course on environmental protection.³⁷¹ Among the courses offered is one on *National Human Rights Institutions (NHRIs) and Environmental Rights* which was developed out of a collaboration between the Asia Pacific Forum for National Human Rights Institutions and the United Nations Environment Program.³⁷² Other courses on InforMEA learning include an

³⁷⁰ <https://unccelearn.org/course/view.php?id=136&page=overview>

³⁷¹ <https://elearning.informea.org/?lang=en>

³⁷² <https://elearning.informea.org/course/view.php?id=73> The course is based on a Learning Needs

Assessment of National Human Rights Institutions on Environmental Rights: Enhancing the Role of National Human Rights Institutions to Advance Environmental Rights in Asia and the Pacific. National Human Rights Institutions (NHRIs) and Environmental Rights: Course Syllabus

https://elearning.informea.org/pluginfile.php/1/theme_info/syllabus/73/NHRIs%20and%20Environmental%20Rights_Course%20Syllabus.pdf

Asia Pacific Forum & UNEP, National Human Rights Institutions (NHRIs) and Environmental Rights: Course Handbook

https://elearning.informea.org/pluginfile.php/85261/mod_resource/content/4/NHRIs%20and%20Environmental%20Rights_Course%20Workbook.pdf

Introduction to Human Rights and the Environment,³⁷³ and one on the *Climate Change International Legal Regime*.³⁷⁴

9.1.3 UN SDG:Learn

UN SDG:Learn is a United Nations initiative that aims to bring relevant and curated learning solutions on sustainable development topics to individuals and organizations. It is described as a unique gateway to a wealth of SDG-related learning products and services that are currently available. The course offering is searchable by Sustainable Development Goal, which allows for the easy identification of offerings related to climate action (SDG13).³⁷⁵

9.1.4 The UN Food and Agriculture Organization Climate Change Knowledge Hub

The Climate Change Knowledge Hub (CC-Hub) gathers existing knowledge and resources on climate change in the agricultural and land use sectors. Its interactive features allow users to connect with peers, experts and capacity building providers. It also provides data, learning materials and activities, guidelines, policy advice and tools. The CC-Hub's overall aim is to enhance countries' knowledge and capacity to deliver on their climate and sustainable development goals.³⁷⁶

In addition to these general portals, there is a variety of other training material available online. These include:

9.1.5 UNDP Environmental Governance Programme (EGP) Human Rights Institutions & the Environment Webinar Series, 25-27 November 2019.

Insights from a webinar series for national human rights institutions focused on the role of NHRIs in implementing international law and norms and protecting and promoting human rights related to the environment at the national level.³⁷⁷ This series was done in partnership with GANHRI and the Special Rapporteur on human rights and the environment.

9.1.6 Norwegian National Human Rights Institution

The Norwegian National Human Rights Institution (NHRI) hosted a webinar on climate change and human rights. It included a presentation regarding States' human rights obligations to mitigate climate change based on reports of the Norwegian NHRI and

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https://elearning.informea.org/pluginfile.php/1/theme_info/syllabus/36/Introduction%20to%20Human%20Rights%20and%20the%20Environment.pdf

³⁷⁴

https://elearning.informea.org/pluginfile.php/1/theme_info/syllabus/37/Climate%20Change%20International%20Legal%20Regime.pdf

³⁷⁵ <https://www.unsdglearn.org/courses>

³⁷⁶ <https://www.fao.org/climate-change/knowledge-hub/learning-corner/en/>

³⁷⁷ <https://www.environmentalgovernanceprogramme.org/human-rights-institutions-the-environment>

Webinar Series Report: The Right to a Healthy Environment and the Role of National Human Rights Institutions
<https://learningfornature.org/wp-content/uploads/2020/02/Webinar-Report-Right-to-a-Healthy-Environment-compressed.pdf>

the European Network of National Human Rights Institutions and included a panel discussion with leading experts in human rights law, environmental law and climate litigation.³⁷⁸

9.1.7 United Nations Framework Convention on Climate Change Secretariat

Climate Get the Big Picture: A Guide to the UNFCCC and its Processes seeks to provide a starting point to see the 'big picture' of the United Nations climate change regime, including the UN Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement. It guides the newcomer through the various issues covered by the regime, such as mitigation, adaptation and support. The guide also explains the negotiation processes where governments consider climate action and take further steps to enhance it.³⁷⁹

9.1.8 Danish Institute for Human Rights

The Danish Institute for Human Rights offers an *Introduction to a human-rights-based approach*, which provides a general introduction to the key elements of a human rights-based approach (HRBA) to development.³⁸⁰

9.1.9 Australian Human Rights Commission

The Australian Human Rights Commission made an early contribution to discussion of human rights and climate change with a 2008 background paper *Human Rights & Climate Change*.³⁸¹

9.1.10 Asia Pacific Forum for National Human Rights Institutions (APF)

The APF has published a variety of general training materials. These include a *Manual on National Human Rights Institutions*³⁸² and a guide on *Undertaking Effective Investigations*.³⁸³

9.1.11 Council of Europe HELP course on The Environment and Human Rights

This free online course addresses the legal frameworks and practical approaches to support legal practitioners and others in understanding the connections between

³⁷⁸ <https://www.nhri.no/en/2021/webinar-on-states-human-rights-obligations-to-mitigate-climate-change/> and <https://www.youtube.com/watch?v=OB04wRhCx7M>

³⁷⁹ <https://unfccc.int/resource/bigpicture/>

³⁸⁰ <https://www.humanrights.dk/learning-hub/introduction-human-rights-based-approach>

³⁸¹ <https://humanrights.gov.au/our-work/commission-general/publications/human-rights-climate-change-2008>

³⁸² Updated October 2018 and available in English, Arabic and Russian.

<https://www.asiapacificforum.net/resources/manual-on-nhris/>

³⁸³ *Undertaking Effective Investigations: A Guide For National Human Rights Institutions*, 2013

<https://www.investigationstraining.com/manual-on-conducting-effective-investigations-for-the-asia-pacific-forum-of-national-human-rights-institutions/>

https://www.investigationstraining.com/wp-content/uploads/Undertaking_effective_investigations_guide.pdf

human rights and the environment, in particular how to apply a human rights-based approach to environmental protection.³⁸⁴

9.2 General Information

Information and data about climate change is widely available from many national and international sources. A challenge is to find credible information and data to meet specific needs for particular activities such as investigations, reports, and impact assessments. NHRI experience suggests that partnerships with persons and organisations with the necessary technical knowledge and expertise will be an important way of meeting that challenge.

In addition to sources mentioned elsewhere in this *Practical Guidance*, general information about climate change and climate action is available from the following sources.

9.2.1 Inter-governmental Panel on Climate Change (IPCC)

The Inter-governmental Panel on Climate Change³⁸⁵ is the United Nations body for assessing the science related to climate change. It was created to provide policymakers with regular scientific assessments on climate change, its implications and potential future risks, as well as to put forward adaptation and mitigation options. The IPCC prepares comprehensive Assessment Reports about the state of scientific, technical and socio-economic knowledge on climate change, its impacts and future risks, and options for reducing the rate at which climate change is taking place. It also produces Special Reports on topics agreed to by its member governments, as well as Methodology Reports that provide guidelines for the preparation of greenhouse gas inventories. The next comprehensive Assessment Report (AR6) is due to be published in September 2022. The first part of the AR6, *Climate Change 2021: The Physical Science Basis*,³⁸⁶ was published in August 2021. The second part, *Climate Change 2022: Impacts, Adaptation and Vulnerability*,³⁸⁷ was published in February 2022, and the third part, *Climate Change 2022: Mitigation of Climate Change*, will be published in March 2022. The second and third parts will include information related to many socio-economic issues with human rights implications.

9.2.2 The Uninhabitable Earth: A Story of the Future

The IPCC reports should be more than sufficient to understand the urgency and magnitude of the threat to human rights posed by climate change. If something more graphic and less technical is required to seize the gravity of the situation, one could look to David Wallace-Wells, *The Uninhabitable Earth: A Story of the Future*, Allen Lane, 2019.³⁸⁸

³⁸⁴ The course can be accessed by visiting the HELP e-learning platform at <http://help.elearning.ext.coe.int/>. It is necessary to open a HELP account and then access the online course at:

<http://help.elearning.ext.coe.int/course/view.php?id=4237>

³⁸⁵ <https://www.ipcc.ch/>

³⁸⁶ <https://www.ipcc.ch/report/ar6/wg1/>

³⁸⁷ <https://www.ipcc.ch/report/ar6/wg2/>

³⁸⁸ https://www.academia.edu/39776594/David_Wallace_Wells_2019_The_Uninhabitable_Earth

9.2.3 Climate Action Tracker

The Climate Action Tracker³⁸⁹ is an independent scientific analysis that tracks government climate action and measures it against the globally agreed Paris Agreement aim of "holding warming well below 2°C, and pursuing efforts to limit warming to 1.5°C." A collaboration of two organisations, Climate Analytics and New Climate Institute, the CAT has been providing this independent analysis to policymakers since 2009. The CAT tracks 39 countries and the EU covering around 80% of global emissions.³⁹⁰ Together these countries and the EU cover about 80% of global emissions and approximately 70% of global population.

9.2.4 United Nations Environment Program

UNEP's *Emissions Gap Report 2021: The Heat Is On* is the 12th edition in a series of annual reports that provides an overview of the difference between where greenhouse emissions are predicted to be in 2030 and where they should be to avert the worst impacts of climate change.³⁹¹ In 2019 UNEP also published the *Environmental Rule of Law: First Global Report*, which addresses multiple factors contributing to poor enforcement of environmental rule of law, including poor coordination across government agencies, weak institutional capacity, lack of access to information, corruption and stifled civic engagement.³⁹²

9.2.5 International Energy Agency

The International Energy Agency's (IEA) special report *Net Zero by 2050 A Roadmap for the Global Energy Sector* is a comprehensive study of how to transition to a net zero energy system by 2050 while ensuring stable and affordable energy supplies, providing universal energy access, and enabling robust economic growth.³⁹³

9.2.6 World Resources Institute (WRI)

The Climate Program at the World Resources Institute focuses on four main areas: stepping up national climate action, advancing international climate action, tracking progress toward climate goals and supporting equity and development goals in the transition to a zero-carbon economy. It is a rich source of information about climate action. Its *Just Transition and Equitable Climate Action Resource Center* showcases initiatives by governments, communities and companies that provide lessons for how workers and communities can benefit from the transition to a zero-carbon economy.³⁹⁴ Its publication *Navigating the Paris Agreement Rulebook* helps to understand the numerous UNFCCC bodies and processes established to implement the Paris

³⁸⁹ <https://climateactiontracker.org/> and https://www.youtube.com/watch?v=4H_D1bcboJ4

³⁹⁰ [Argentina](#), [Australia](#), [Bhutan](#), [Brazil](#), [Canada](#), [Chile](#), [China](#), [Colombia](#), [Costa Rica](#), [EU](#), [Ethiopia](#), [Gabon](#), [Germany](#), [India](#), [Indonesia](#), [Iran \(Islamic Republic of\)](#), [Japan](#), [Kazakhstan](#), [Kenya](#), [Mexico](#), [Morocco](#), [Nepal](#), [New Zealand](#), [Nigeria](#), [Norway](#), [Peru](#), [Philippines](#), [Russian Federation](#), [Saudi Arabia](#), [Singapore](#), [South Africa](#), [South Korea](#), [Switzerland](#), [Thailand](#), [The Gambia](#), [Turkey](#), [UAE](#), [USA](#), [Ukraine](#), [United Kingdom](#) and [Viet Nam](#)

³⁹¹ <https://www.unep.org/resources/emissions-gap-report-2021> and its executive summary at

https://wedocs.unep.org/bitstream/handle/20.500.11822/36991/EGR21_ESEN.pdf

³⁹² <https://www.unep.org/resources/assessment/environmental-rule-law-first-global-report>

³⁹³ <https://www.iea.org/reports/net-zero-by-2050>

³⁹⁴ <https://www.wri.org/just-transitions>

Agreement.³⁹⁵ WRI is one of the lead authors of the *State of Climate Action 2021: Systems Transformations Required to Limit Global Warming to 1.5°C*.³⁹⁶ The report authored by the UN High-Level Climate Champions³⁹⁷, Climate Action Tracker, ClimateWorks Foundation, Bezos Earth Fund and World Resources Institute translates the required transitions into 40 targets for 2030 and 2050, with measurable indicators. Chapter 11 on *Equity and Just Transition* discusses the importance of a just transition for fossil fuel workers and communities and the wider equity implications of low-carbon systems transformations. While it does not refer to human rights, the relevance of procedural and substantive rights to just transition is obvious.

9.2.7 Climate Change Laws of the World

Climate Change Laws of the World covers national-level climate change legislation and policies globally.³⁹⁸ The database covers climate and climate-related laws, as well as laws and policies promoting low carbon transitions, which reflects the relevance of climate policy in areas including energy, transport, land use, and climate resilience. Climate Change Laws of the World is a collaboration of the Grantham Research Institute at LSE and the Sabin Center at Columbia Law School.

9.2.8 Climate Change Litigation Databases

This website provides two databases of climate change litigation: (1) a U.S. Climate Change Litigation database and (2) a Global Climate Change Litigation database, which includes all cases except those in the U.S. The U.S. Climate Change Litigation database is a joint project of the Sabin Center for Climate Change Law at Columbia Law School and Arnold & Porter. The U.S. Climate Litigation Chart was created in 2007 and was relaunched as an interactive and searchable database in 2017. The U.S. database is updated on a monthly basis, and as of March 2022 included nearly 1400 cases with links to nearly 9000 case documents. The Global Climate Change Litigation database was created in 2011 and is updated regularly. In March 2022 it included over 500 cases, with links to nearly 1000 case documents. This represented cases from over 40 countries. The Global database includes climate litigation cases brought before international or regional courts or tribunals.³⁹⁹

9.2.9 Climate Social Sciences Network

The Climate Social Sciences Network (CSSN) is an international network of scholars headquartered at the Institute at Brown for Environment and Society, launched in October 2020.⁴⁰⁰ Scholars in the network are social scientists producing peer-reviewed research focused on understanding political conflict over climate change. One of the issues that members of the Network examine is the practice of greenwashing, which is “[a]n umbrella term for a variety of misleading communications

³⁹⁵ <https://www.wri.org/paris-rulebook>

³⁹⁶ https://www.wri.org/research/state-climate-action-2021?utm_source=newsletter&utm_medium=email&utm_campaign=here_are_three_business_people_and_planet_updates_for_you&utm_term=2021-10-29

³⁹⁷ <https://unfccc.int/climate-action/marrakech-partnership/actors/meet-the-champions>

³⁹⁸ <https://climate-laws.org/>

³⁹⁹ <http://climatecasechart.com/climate-change-litigation/about/>

⁴⁰⁰ <https://www.cssn.org/>

and practices that intentionally or not, induce false positive perceptions of an organization's environmental performance.”⁴⁰¹

9.2.10 Human Rights and Climate Change Working Group

The Human Rights and Climate Change Working Group (HR&CC WG)⁴⁰² is an informal coalition with close to 400 individual members on its main listserv seeking to strengthen the recognition of the human rights dimension of climate change and to secure adequate legal remedies for those impacted. The members of the WG include civil society advocates, indigenous peoples' representatives, scholars and allies in intergovernmental organizations and NHRIs. The HR&CC WG seeks to operate across traditional constituencies. It engages in the following ways:

Within the UNFCCC, its members advocate for human rights in the development, implementation and monitoring of the climate policies, institutions and mechanisms established under the UNFCCC.

Within other international processes, including the post-2015 agenda for the Sustainable Development Goals and the Human Rights Council, its members advance the linkages between human rights and climate change.

At the national and regional levels, its members provide technical support with respect to the implementation of rights-based policies and actions on the ground.

At the community level, its members help to build capacity and provide support to peoples and communities seeking to hold state and corporate actors accountable for the adverse impacts of climate policies and actions.

9.2.11 Amnesty International

Amnesty International has prepared an overview of human rights standards and issues relevant to human rights in its report, *Stop Burning Our Rights! What Governments and Corporations Must Do to Protect Humanity from the Climate Crisis*.⁴⁰³

⁴⁰¹ Nemes, N., Stabinsky, D., Scanlan, S.J., Smith, P., Smith, T., Aronczyk, M., Lewis, S.L., Montgomery, A.W. and Tubiello, F.N., 2021. An Integrated Framework to Assess Greenwashing. CSSN Working Paper 2021:1, page 5 at <https://www.cssn.org/wp-content/uploads/2021/09/CSSN-Working-Paper-2021-on-Assessing-Greenwashing-1.pdf>.

⁴⁰² <https://climaterights.org/about/>

⁴⁰³ Index: POL/30/3476/2021, 2021 at: <https://www.amnesty.org/en/wp-content/uploads/2021/11/POL3034762021ENGLISH.pdf>. Also available in French, *Nos Droits Brûlent ! Les Gouvernements et les Entreprises Doivent Agir Pour Protéger l'Humanité Face à la Crise Climatique*, Index : POL 30/3476/2021 French, 2021 at: <https://www.amnesty.org/en/wp-content/uploads/sites/8/2021/11/POL3034762021FRENCH.pdf>

9.2.12 United Nations

The United Nations has a website devoted climate change.⁴⁰⁴ While it provides access to a wide range of general information about climate change, it does not include material devoted to addressing the links between human rights and climate change.

10 Annex II: GANHRI Members' Activities related to Climate Change

[In preparation.]

⁴⁰⁴ <https://www.un.org/en/climatechange>