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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

 Scene-setting report

 Report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, Elisa Morgera[[1]](#footnote-2)\*

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| *Summary* |
| The present report maps efforts made in international human rights processes to clarify issues and obligations in relation to climate change. It aims to identify good practices, challenges and opportunities relevant to the implementation of the Special Rapporteur’s mandate for the years to come in the context of climate change mitigation, adaptation, just transition, climate finance, and loss and damage. The report stresses the importance of intersectionality, with a view to promoting policy coherence and increased cooperation.  |
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 I. Introduction

1. Since the creation of the mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change in 2021, three thematic reports were completed out of the six priority areas highlighted by the previous mandate holder (A/HRC/50/39): (a) protection of human rights in the context of climate change mitigation, adaptation and financial actions, with emphasis on loss and damage; (b) human rights implications of climate change displacement; and (c) climate change legislation, support for climate change litigation and advancement of the principle of intergenerational justice. The following priorities have remained unaddressed: (d) corporate accountability with respect to human rights and climate change; (e) protection of human rights through just transition; and (f) exploration of the impacts of new mitigation technologies on human rights.
2. In parallel, considerable work has been, and is currently being, undertaken by other human rights mechanisms with respect to climate change; and unprecedented rulings on the impacts of climate change on human rights have been issued at the national and regional levels. Further, the International Law Commission is undertaking work on sea-level rise;[[2]](#footnote-3) and three Advisory Opinions have been requested to clarify international obligations related to climate change to the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice, and the Inter-American Court of Human Rights.[[3]](#footnote-4)
3. The second mandate holder, Ms. Elisa Morgera, took office on 1 May 2024, a month and half before the submission of her first thematic report. Considering the fast-moving landscape over the last five years, this report maps efforts made in clarifying human rights issues and obligations in relation to climate change in international human rights processes. The report aims to identify good practices, challenges and opportunities relevant to the implementation of the Special Rapporteur’s mandate for the years to come in the context of climate change mitigation, adaptation, just transition, climate finance, and loss and damage. In doing so, the report also focuses on intersectionality, with a view to supporting policy coherence and increased cooperation on human rights-based, gender-responsive, age-sensitive, disability-inclusive and risk-informed approaches to climate change.[[4]](#footnote-5)
4. Together with the 2024 report to be presented to the General Assembly, which will explore access to information on climate change and human rights, this report will set the scene for an inclusive process of prioritization of the themes to be addressed under the mandate, through regional consultations during the second half of 2024.
5. Mitigation
6. Climate Change mitigation refers to actions that address the causes of climate change, by decreasing the amount of greenhouse gas emissions into the atmosphere, and enhancing “sinks” (e.g. forests, the ocean) that remove greenhouse gases from the atmosphere.[[5]](#footnote-6) Mitigation has been considered an obligation to take effective measures to prevent foreseeable harm to human rights caused by climate change by the Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), the Committee on the Rights of the Child (CRC) and the Committee on the Rights of Persons with Disabilities (CRPD**).**[[6]](#footnote-7) The Human Rights Committee indicated that international assistance in mitigation is necessary to protect the right to life with dignity in countries at extreme risk of becoming submerged under water, before the risk is realized (CCPR/C/127/D/2728/2016).
7. Treaty bodies and several Special Procedures have clarified which mitigation actions are to be prioritized, from a human rights perspective, and how these actions should be undertaken, with a growing body of recommendations that contribute to clarify intersectionality in the context of mitigation.

 A. Mitigation actions

1. The mitigation actions that have been singled out across human rights processes are in the areas of fossil fuels, coal, energy efficiency, nature conservation, and food systems.
2. CESCR clarified that mitigation should lead to absolute emission reductions through the phasing out of fossil fuel production and use (E/C.12/GC/26), with CESCR, CEDAW, CRC, CERD and CCPR addressing fossil fuels in their State reporting procedure[[7]](#footnote-8) and several Special Rapporteurs pointing to the staggering environmental and social costs of the use of fossil fuels.[[8]](#footnote-9) A group of Special Rapporteurs called for ending fossil fuel expansion, and accelerating the phase-out of coal, oil and natural gas (AL EGY 9/2022). The CRC emphasized that to protect children’s right to a healthy environment, which is implicit in the Convention on the Rights of the Child, States must take immediate action to equitably phase out the use of coal, oil and gas (CRC/C/GC/26). The Special Rapporteurs on the right to a healthy environment, rights to water and sanitation, toxics, right to development, and extreme poverty, and the Independent Expert on an Equitable International Order recommended accelerating the just and equitable phase out of fossil fuels.[[9]](#footnote-10)
3. The Special Rapporteur on the right to a healthy environment called for: prohibiting further exploration for additional fossil fuels; rejecting any other expansion of fossil fuel infrastructure; and immediately terminating all fossil fuel subsidies, except for clean cookstove programmes (A/74/161). The Special Rapporteur on International Solidarity recommended that the highest emitting States, in historical and contemporary terms, corporations and international organizations consider ceasing to pursue the exploration of, and new investments in, fossil fuels, to avoid exceeding the shared carbon budget, and cooperate to avoid perpetuating asymmetries between richer and poorer States and peoples (A/HRC/44/44). The Independent Expert on Older Persons recommended reducing reliance on fossil fuels (A/78/226).
4. The Special Rapporteurs on the right to a healthy environment and on Toxics identified coal and fossil fuel extractive facilities as the most heavily polluting and hazardous ones (A/HRC/49/53). They called on all countries to immediately stop constructing new coal power plants, phasing them out completely by 2030 in advanced economies and by 2040 globally. They also recommended terminating all forms of financial support for unabated coal-fired power plants, immediately terminating all subsidies and export financing for all actions related to coal-fired power plants and mining of thermal coal, with the sole exception of pollution-abatement technologies that do not prolong the life of a power plant.[[10]](#footnote-11) The Special Rapporteur on the right to a healthy environment also recommended an integrated approach to tackling air pollution and climate change to maximize co-benefits, targeting with urgency short-lived climate pollutants (A/HRC/40/55).
5. The Special Rapporteur on the right to housing called for stepping up efforts to improve the energy efficiency of households, and the expansion of access to electricity produced in an environmentally friendly manner; using affordable and accessible net-zero embodied carbon for major building components, as well as renewable materials, in housing construction; and encouraging greater housing-need satisfaction from the existing housing stock. The Rapporteur further recommended appropriate taxation policies and investment in the development of new carbon-neutral, climate-resilient social housing that is affordable for all; and cautioned against evictions and involuntary resettlement of communities in the context of mitigation (A/HRC/52/28).
6. On ecosystem-based approaches to climate change mitigation, the Special Rapporteur on the right to a healthy environment recommended prioritizing them, with appropriate safeguards to protect human rights (A/75/161). The CRC called for immediate action to conserve, protect and restore biodiversity, and prevent marine pollution (CRC/C/GC/26). The Special Rapporteur on the rights to water and sanitation underscored water and sanitation management strategies that can limit and reduce emissions; while cautioning against large hydroelectric dams that cause widespread negative social impacts and serious irreversible impacts on ecosystems.[[11]](#footnote-12) The Special Rapporteur on toxics called upon States to protect and restore natural habitats (forests, mangroves and wetlands) for mitigation purposes (A/HRC/54/25).
7. In this connection, ITLOS clarified that greenhouse gas emissions and ocean acidification are forms of marine pollution, therefore States have strict due diligence obligations under the law of the sea that are additional to those contained in the Paris Agreement, to take all necessary measures to prevent future or potential pollution from these emissions, as well as reduce and control existing pollution from these emissions from any source (land-based, vessels and aircraft), both through individual action and participation in global efforts to address climate change. ITLOS clarified that States have strict due diligence mitigation obligations also in the context of the conservation of marine biodiversity and ecosystem restoration, which promote the resilience of living marine resources while enhancing carbon sequestration (Advisory Opinion No 31, 2024).
8. On the role of sustainable food systems for mitigation, the CRC called for immediate action to transform industrial agriculture and fisheries (CRC/C/GC/26). The Special Rapporteur on toxics recommended sustainable agriculture practices that reduce greenhouse gas emissions, avoid hazardous chemicals and sequester carbon in the soil (A/HRC/54/25). OHCHR emphasized the need for: States to adopt measures to equitably reduce food systems emissions, including with respect to production, consumption, diet, and food waste and loss; and developed countries to take the lead in transitioning away from high-emissions diets (A/HRC/55/37). The need to substantially reduce food waste was also recognised by the Special Rapporteur on the right to a healthy environment (A/74/161). Ahead of COP 27, a group of Special Rapporteurs called for transitioning to agroecology, to raise ambition in mitigation (AL EGY 9/2022).

 1. States’ due diligence

1. A group of Special Rapporteurs called for regulating businesses’ emissions under national jurisdictions and ensuring enforcement by national courts (AL EGY 9/2022), before COP 27. The 2024 *KlimaSeniorinnen* decision of the European Court of Human Rights (ECtHR) clarified that States must ensure timely and consistent adoption and effective application of necessary regulations and measures capable of mitigating existing and potentially irreversible, future effects of climate change, including preventing an increase in greenhouse gas concentrations and a rise in global average temperature beyond levels capable of producing serious and irreversible adverse effects on the human rights to life and health, including well-being and quality of life. This entails adopting general legislative and other measures specifying a target timeline for achieving carbon neutrality and the overall remaining carbon budget for the same time frame, or another equivalent method of quantification of future emissions; setting out intermediate emissions reduction targets and pathways (by sector or other relevant methodologies); and providing evidence to demonstrate compliance and to update targets regularly. The Court emphasized that States are aware of these risks and capable of taking measures to effectively address them, if action is taken urgently; underscoring the importance of carbon budgets to be determined on the basis of equity and respective capabilities, to avoid disproportionate burdens on future generations.[[12]](#footnote-13) The CRC indicated that mitigation measures should reflect each State party’s fair share of the global effort to mitigate climate change, in the light of the total reductions necessary to protect against continuing and worsening violations of children’s rights (CRC/C/GC/26).
2. ITLOS clarified stringent due diligence obligations for States to establish the national and international legal frameworks, as well as administrative procedures and enforcement mechanisms, and to exercise adequate vigilance to make such a system function efficiently, with a view to preventing, reducing and controlling climate change, according to States’ capabilities and available resources. ITLOS also pointed to more stringent standards in relation to preventing transboundary harm. Vigilance includes monitoring and inspection, administrative guidance, investigation and prosecution for breaches of laws, and judicial or quasi-judicial proceedings, including prompt and adequate compensation or other relief in respect of damage caused by marine pollution by natural or legal persons under States’ jurisdiction. Due diligence also extends to international cooperation in various international organizations, including those without a specific law of the sea mandate (Advisory Opinion No 31).
3. ITLOS noted that climate change “raises human rights concerns”, with two judges separately confirming that international human rights obligations are applicable to the protection of the marine environment from climate change, including the obligation to prevent disproportionate impacts on those in vulnerable situations, particularly in Small Island Developing States.[[13]](#footnote-14) This Rapporteur underscores that all the obligations outlined by ITLOS are crucial to protect human rights, and in turn should be interpreted in accordance with relevant international human rights obligations. This is the case, for instance, of States’ obligation to subject to an environmental and socio-economic impact assessment any planned activity that may contribute to climate change, in accordance with the precautionary and ecosystem approaches (Advisory Opinion No 31). This obligation also applies to international cooperation, including under the 2023 UN Agreement on Biodiversity of Areas Beyond National Jurisdiction (BBNJ Agreement), which provides for the creation of marine protected areas, environmental impact assessments and strategic environmental assessments, as well as capacity-building, technological and scientific cooperation with developing countries, while considering the importance of conserving the carbon cycling services of ocean ecosystems.[[14]](#footnote-15)
4. Finally, OHCHR indicated that States should consider ways to account for and mitigate emissions embodied in trade, including food trade (A/HRC/55/37). The ECtHR in the *KlimaSeniorinnen* case also considered “embedded emissions” (i.e., emissions from import of goods for household consumption) relevant for assessing whether a State has effectively protected the human rights to life and health from climate change.

 2. Intersectionality

1. Significant guidance has been elaborated to ensure consideration of particularly human rights holders in vulnerable situations, which, read together, contributes to clarify intersectionality in climate change mitigation. CEDAW, CESCR, CMW, CRC and CRPD indicated that when reducing emissions, states must address all forms of discrimination and inequality; select actions and approaches that do not hinder the enjoyment of human rights of persons in vulnerable situations; and pay attention to those most vulnerable to climate harm in international cooperation.[[15]](#footnote-16)CESCR further clarified that States must avoid mitigation policies that lead to land grabbing, and consider all those affected, especially disadvantaged groups, by all forms of land use change induced by climate change (E/C.12/GC/26**).** OHCHR indicated thatStates should: adopt mitigation measures that address entrenched injustices, inequalities and discrimination, past and present, and are informed by historical responsibilities for climate change; andeffectively safeguard against human rights risks from mitigation measures, including when dedicating land for energy transition measures, which may undermine the right to food (A/HRC/55/37).
2. The Special Rapporteur on the right to a healthy environment recommended that States take action, including temporary special measures, to empower women and girls as climate leaders by addressing barriers to the participation of marginalized women and girls; recognize and prioritize the collective and individual needs and rights of Indigenous women and girls in all climate actions, equitably sharing benefits with them; and protect Indigenous women, Afro descendent and other nature-dependent rural women’s traditional knowledge, customary practices and cultural rights (A/HRC/52/33). The Special Rapporteur on Indigenous Peoples recommended incorporating Indigenous women’s knowledge into climate change decision-making, including in technical panels and environmental and socio-cultural impact assessments, and promoting women’s full and equal participation and leadership in all climate governance (A/HRC/51/28). CEDAW clarified that climate mitigation can only be implemented in Indigenous territories with the effective participation of Indigenous women, including full respect for their free prior informed consent and adequate consultation processes (CEDAW/C/GC/39). The Special Rapporteur on violence against women and girls recommended: ensuring the full and effective participation of women and girls in all processes to design, implement, monitor and evaluate mitigation measures at all levels; considering the specific needs in protection from gender-based violence in risk analysis, monitoring and evaluation of mitigation policies, including data collection, financing and allocation of other resources (A/77/136).
3. The Working Group of experts on people of african descent recommended increasing the participation and leadership of frontline communities of African descent, in the design and implementation of mitigation measures, to address climate change and racial discrimination together (A/HRC/48/78). The Special Rapporteur on cultural rights underscored that States should fully explore the potential of culture and cultural heritage, Indigenous knowledge, and local knowledge, to enhance mitigation efforts (A/75/298). The Special Rapporteur on the right to food called for rejecting the advancement of, and suspending, offshore oil and gas projects that negatively impact on small-scale fishers’ and fish workers’ human rights (A/HRC/55/49).
4. The CRC called upon high-income States to lead in economy-wide absolute emission reductions, and on all States to urgently enhance their mitigation measures to protect children’s rights to the maximum possible extent. The Committee further indicated that States should discontinue subsidies to public or private actors for investments in activities and infrastructure that are inconsistent with low greenhouse gas emission pathways; and that developed States should assist developing countries in planning and implementing mitigation measures, to help children in vulnerable situations (CRC/C/GC/26). The Special Rapporteur on the right to adequate housing urged including informal settlements and their residents in mitigation action in the context of urban planning (A/HRC/52/28).
5. The Special Rapporteur on the human rights of migrants called for inclusive, rights-based mitigation to avert, minimize and address displacement, in particular in the most climate-vulnerable countries and communities, based on their specific needs (A/77/189). The Special Rapporteur on the human rights of internally displaced persons recommended enhancing mitigation efforts, to prevent displacement associated with adverse climate change effects; and adopting, and allocating resources to, comprehensive mitigation actions in urban planning, rural development, land use, sustainable livelihoods and the provision of basic services, to reduce exposure and vulnerability to slow-onset events (A/75/207).
6. OHCHR clarified that States should take measures to protect the biodiversity of food sources and systems, and recognize the rights of Indigenous Peoples, and peasants and rural communities (A/HRC/55/37). The Special Rapporteur on cultural rights underscored that mitigation measures could only permitted to have negative impacts on culture and cultural rights as a last resort, subject to fully participatory and consultative approaches, and the free prior informed consent of Indigenous Peoples(A/75/298). The Special Rapporteur on contemporary forms of racism cautioned against “green sacrifice zones” where racially and ethnically marginalized groups are disproportionately exposed to human rights violations associated with the extraction or processing of alternatives to fossil fuels. The Rapporteur called for meaningful mitigation that addresses systemic racism, in particular the historic and contemporary racial legacies of colonialism and slavery, on the basis of inputs, consideration and leadership of racially marginalized peoples, rather than overreliance on technocratic knowledge (A/77/549).
7. The Special Rapporteur on the human rights of persons with disabilities underscored the inclusion and meaningful participation of persons with disabilities in the design, implementation and monitoring of mitigation measures (A/HRC/55/56). The CRC emphasized that mitigation objectives and measures should clearly indicate how they respect, protect and fulfil children’s rights, through age-appropriate, safe and accessible mechanisms for children’s views to be heard regularly and at all stages and levels of decision-making processes that may affect them (CRC/C/GC/26). The Maastricht Principles on the Human Rights of Future Generations,[[16]](#footnote-17) which the former Special Rapporteur on Climate Change recommended be considered by the General Assembly (A/78/255), pointed to the need to reduce emissions, while ensuring that the burdens are not shifted to future generations.
8. OHCHR called attention to mitigation measures that can disrupt agricultural practices, such as planned relocation and the conversion of land for biofuels production, which can have disproportionate effects on older persons; and recommended taking age- and gender-responsive and disability-inclusive measures, through intergenerational dialogue with the participation of community elders (A/HRC/47/46). The former Special Rapporteur on climate change underscored the need to develop national climate change legislation on inter-generational equity (A/78/255).

 B. Technologies

1. The former Special Rapporteur on climate change, and the Special Rapporteurs on contemporary forms of racism and on the right to a healthy environment underscored serious environmental and human rights concerns about unproven mitigation technologies (A/HRC/50/39; A/77/549; A/74/161). In this connection, CRC called on States to prioritize rapid and effective emissions reductions in the shortest possible period of time, to avoid irreversible damage to nature (CRC/C/GC/26). The Special Rapporteur on the right to a healthy environment expressed concern about: geoengineering – the large-scale manipulation of natural systems, indicating that they should not be used until their implications are much better understood (A/74/161); and with the Special Rapporteur on Toxics, unproven carbon capture and storage technologies associated with coal-fired power plants.[[17]](#footnote-18)
2. The Human Rights Council Advisory Committee clarified that international human rights law apply to any new technological development related to mitigation, particularly when it has the potential to produce large and long-lasting impacts on human rights and the environment. The Committee noted that carbon dioxide removal technologies and solar radiation modification actually increase carbon dioxide in the system, if the overall emissions produced by constructing and operating the relevant facilities are taken into account. The Committee also noted that these technologies act as a deterrent to cutting emissions, because they give “the false promise of a hypothetical future solution to a problem that requires immediate action.” The Committee further indicated that these technologies are likely to have “irreversible impacts on complex global planetary systems and negatively affect everyone indiscriminately due to the incommensurable magnitude of the potential negative socioeconomic and human rights impacts, particularly for marginalized socioeconomic groups.” The Committee clarified that State obligations include to: protect all persons against potential human rights violations involving companies developing these technologies; develop governance frameworks that facilitate inclusive dialogue, transparent processes, accountability and the active participation of all persons in decision-making processes, including voices from the Global South, Indigenous Peoples, peasants, women, people of colour, and frontline communities; carry out ex ante human rights and environmental impact assessments of experiments, and continuous monitoring and evaluation, which are conducted by independent and impartial bodies, with safeguards against conflicts of interests, and public participation and oversight; and prioritize research on greenhouse gas emissions reductions. The Committee recommended adopting restrictive regulations on solar radiation modification experiments, including a ban on outdoor experiments, while only allowing conditional and controlled research; and disincentivizing the development and deployment of carbon dioxide removal techniques, by withholding public support (including funding) for them, requiring research to be non-profit, and disclosing any finance provided by the fossil fuel industry (A/HRC/54/47). The Advisory Committee finally noted that its findings also apply to bioenergy with carbon capture and storage, which had also concerned the Special Rapporteur on the rights to water and sanitation because of extremely large water consumption of the same magnitude as those of all current agricultural water withdrawals (2022 un-numbered report).
3. The Committee considered the decision adopted by Parties to the Convention on Biological Diversity (CBD) in 2010 as an authoritative moratorium on geo-engineering that supports the consideration of applicable intentional human rights. CBD Parties had decided by consensus that, in the absence of science-based, transparent, effective control and regulatory mechanisms over geo-engineering activities, no such activities should take place “until there is an adequate scientific basis on which to justify such activities and appropriate consideration of the associated risks for the environment and biodiversity and associated social, economic and cultural impact”.[[18]](#footnote-19) In addition, CBD Parties subjected also “small-scale scientific research studies” to restrictions as they should be only “conducted in a controlled setting” and “only if they are justified by the need to gather specific scientific data and are subject to a thorough prior assessment of the potential impacts on the environment.” This Rapporteur underscores that whether an experiment is small-scale depends on the extent of the potential risk of harm to the environment and to human rights, notably those of Indigenous Peoples, frontline communities, children and future generations.
4. The Special Rapporteur on toxics underscored that mitigation technologies can also exacerbate toxic pollution, including rapid mining that can cause water shortages and toxic mining wastes, as well as contribute to climate change. He recommended integrating decarbonization technologies with detoxification strategies, by assessing not only the greenhouse gas reduction potential of energy sources, fuels, products and technologies, but also their full life cycle, including the impacts of materials extraction, pollution released during manufacturing, chemical exposure from use, and waste management and disposal. He clarified that State obligations in relation to mitigation technologies include to: adopt mandatory standards on environmental and human rights due diligence and supply chain transparency; enforce and strengthen environmental and social safeguards, instead of exempting proposed mitigation technologies; establish mitigation technology clusters to modernize and diversify industrial sectors that are critical for the energy transition; and establish mandatory recycling and recovery rates for critical materials for the energy transition, as a prerequisite for considering the feasibility of new mines (A/HRC/54/25).
5. ITLOS indicated that marine geoengineering is contrary to the UN Convention on the Law of the Sea when it has the consequence of transforming one type of pollution into another and is incompatible with the obligation to take all measures necessary to prevent, reduce and control marine pollution resulting from the use of technologies under States’ jurisdiction or control (Advisory Opinion No 31). This Rapporteur considers that geoengineering is also incompatible with States’ obligations related to the protection of marine biodiversity for the purposes of climate change mitigation and adaptation, clarified elsewhere in the Advisory Opinion. This is in consideration that “damage suffered by the ecosystems […] in turn affects the enjoyment of human rights”, as underscored by CEDAW, CESCR, CMW, CRC and CRPD.[[19]](#footnote-20)

 C. Carbon credits

1. Carbon credits refer to the creation of mechanisms to facilitate compliance by States to meet their climate targets by acquiring carbon credits earned from the reduction of greenhouse gas emissions elsewhere, and the unlocking of additional financial support for developing countries.[[20]](#footnote-21) OHCHR underscored that many voluntary carbon credits have been found to inaccurately reflect actual emission reductions achieved and/or likely to be achieved; and that nature-based carbon credits have been associated with widespread displacement and increased human rights harms and risks for people whose livelihoods depend on nature, including Indigenous Peoples.[[21]](#footnote-22) The UN Special Rapporteur on the right to a healthy environment noted the grave risks arising from carbon credits for the rights of Indigenous Peoples, pastoralists and local communities, who were not consulted and are unlikely to receive a fair share of the financial benefits from credits accrued in the territories where they live and/or that they traditionally use for their livelihoods and culture. He also raised questions about the unproven contributions of carbon markets to generate negative emissions on a sufficiently large scale (A/HRC/55/43).
2. A group of Special Rapporteurs called for ensuring that market-based mechanisms have effective means for protecting human rights and effective compliance and redress mechanisms, including mandatory environmental and human rights due diligence laws and policies (AL EGY 9/2022).
3. The Special Rapporteur on the human rights of Indigenous Peoples called for a moratorium on carbon credits until existing and future crediting and certification schemes are explicitly required to comply with international human rights standards, including by: guaranteeing the full participation of Indigenous Peoples in multi-stakeholder governance organizations; ensuring Indigenous rights expertise in validation and verification bodies; properly assessing whether national laws, policies and practices are in line with international human rights law standards; and conducting projects in a manner that respects Indigenous Peoples’ rights and is agreed upon by them (A/HRC/54/31).
4. Adaptation
5. Climate change adaptation entails adjustments in ecological, social or economic systems to respond to current and future climate change impacts.[[22]](#footnote-23) The Human Rights Committeeclarified thatthe lack, delay or inadequacy of adaptation is a violation of human rights, when the ability of human rights-holders to cope is compromised, and negative impacts on their human rights (including livelihoods and culture, including the ability to transmit knowledge and traditions to children and future generations) are foreseeable, serious and attributable to State authorities (CCPR/C/135/D/3624/2019). ECtHR indicated that adaptation measures aimed at alleviating the most severe or imminent consequences of climate change, taking into account any relevant particular needs for protection, must be put in place and effectively applied in accordance with the best available evidence (*KlimaSeniorinnen* decision).
6. The Special Rapporteur on the right to a healthy environment indicated that States should develop adaptation actions through inclusive, participatory processes, informed by the knowledge, aspirations and specific contexts of affected countries, communities and individuals; implement national adaptation plans that address both extreme weather disasters and slow-onset events, by building or upgrading climate-resilient infrastructure; developing disaster risk reduction and management strategies, early warning systems and emergency response plans; provide social protection mechanisms to reduce vulnerability to climate-related disasters and stresses, enabling people to become more resilient; and ensure that adaptation actions do not reduce the vulnerability of one group at the expense of other people, future generations or the environment (A/74/161). The Special Rapporteur on the right to development recommended that technological and other adaptation measures should build on Indigenous knowledge, and local and traditional knowledge and practices (A/76/154).
7. The Special Rapporteur on the right to a healthy environment also called for prioritizing the protection and restoration of ecosystems to reduce vulnerability, buffering the impacts of extreme weather disasters and slow-onset events, and to enhance ecosystem services, including fresh water, clean air, fertile soil, pest control and pollination (A/74/161). In that respect, ITLOS clarified that the following State obligations under the law of the sea are applicable to adaptation: to implement measures to protect and preserve the marine environment in relation to climate change impacts and ocean acidification, including resilience and adaptation actions; to protect and preserve rare or fragile ecosystems, as well as the habitat of depleted, threatened or endangered species and other forms of marine life from climate change impacts and ocean acidification; and to take into account, in conservation measures, the impacts of climate change and ocean acidification, including shifts in fish distribution and decreases in fisheries that affect the “income, livelihoods, and food security of marine resource-dependent communities”, as well as impacts on marine ecosystems which will put “key cultural dimensions of lives and livelihoods at risk” (Advisory Opinion No 31). This Rapporteur considers that the references to lives, food, livelihoods and culture in the Advisory Opinion should be interpreted in the light of the clarifications from various human rights mechanisms outlined in the following section. The following clarifications are also relevant for other international obligations to protect and restore terrestrial, aquatic and marine ecosystems under a variety of biodiversity-related treaties.
8. The Special Rapporteur on cultural rights underscored that States should: protect cultural rights from the climate emergency, in a globally coordinated and resourced way, while being driven by local priorities and concerns, with adequate funding, monitoring and follow-up; prioritize the need for an especially urgent, effective and concerted global effort to prevent the cultural extinction of populations facing particular threats from the climate emergency, such as those in polar and coastal regions, including Indigenous Peoples and those living in Small Island States; fully explore the potential of culture and cultural heritage, Indigenous knowledge, and local knowledge to enhance adaptation efforts; and include harm to culture, cultural heritage and cultural rights in any inventory of harms resulting from or likely to result from climate change adaptation actions, as well as in all environmental impact and climate vulnerability assessments and in policy responses at all levels (A/75/298).
9. The Special Rapporteur on the right to a healthy environment called for accelerating and scaling up actions to strengthen the resilience and adaptive capacity of food systems and people’s livelihoods in response to climate variability and extremes (A/74/161). The OHCHR elaborated on the need for holistic measures for: minimizing the adverse impact of climate change on the right to food; integrating human rights analysis, including regarding impacts on the right to food, into national adaptation plans and national plans for disaster management, while ensuring the meaningful participation of those most impacted by climate change in related processes; protecting food-related rights and knowledge, which includes the knowledge of Indigenous Peoples, peasants, local communities and other people living in rural areas; and promoting policies supporting economic diversification of agriculture and food production, which can increase climate resilience(A/HRC/55/37).
10. The Special Rapporteur on the right to adequate housing cautioned against: climate change-related insurability crisis, with insurers raising premiums or refusing to insure properties in high-risk areas; post-disaster reconstruction favouring the interests of elites and promoting privatisation or land grabs; and climate gentrification due to geographical exposure, engineered resilience or public investments in resilience or energy efficiency that affect the marketability and valuation of property, thereby decreasing housing affordability. The Rapporteur called on States to continuously work, in consultation with affected people, to improve the climate resilience of housing and climate-disaster preparedness, through regional or local strategies to map, identify, prepare for and mitigate climate risks and to engage in participatory neighbourhood planning exercises, with representation from vulnerable groups; include informal settlements and their residents in any climate adaptation planning; and provide safe and adequate shelter and reconstruction assistance after climate events, including through the provision of funds, materials, facilities and infrastructure (A/HRC/52/28).
11. The Special Rapporteur on the right to health called for greater attention to the right to mental health in adaptation strategies, by providing timely access to high-quality, rights-based support, that is responsive to the particular needs of persons affected by severe weather events and integrated into existing primary, general health and social care services. The Rapporteur also emphasized restoring and protect human connections with nature, to facilitate individual and community healing and encouraging inter-generational alliances (A/HRC/44/48).

 A. Intersectionality

1. Significant guidance has been elaborated to ensure consideration of vulnerable human rights holders, which, read together, contributes to clarify intersectionality in climate change adaptation. The former Special Rapporteur on climate change recommendedprioritizing persons in vulnerable situations in adaptation plans, providing support to build their resilience to the impacts of climate change, and designing accessible early warning systems to people living in poverty or in remote communities (A/78/255).
2. The Special Rapporteur on the human rights of persons with disabilities emphasized: the availability and accessibility of effective warnings for persons with disabilities in areas likely to be affected by natural disasters as a result of climate change; and inclusion and meaningful participation of persons with disabilities in the design, implementation and monitoring of adaptation measures (A/HRC/55/56). The latter was also recommended by the CRPD (CRPD/C/SYC/CO/1 and CRPD/C/BOL/CO/1) and the Special Rapporteur on trafficking in persons, especially women and children (A/77/170). OHCHR clarified that States’ obligations include to: ensure that emergency information, education, infrastructures and services are inclusive and accessible to persons with disabilities; adopt or reform national emergency response plans and protocols to make them inclusive of, and accessible to, persons with disabilities; mainstream disability considerations into humanitarian aid policies; enhance the knowledge of aid workers regarding the requirements and capacities of persons with disabilities, with particular attention to the early response phases of emergencies in relation to rehabilitation and assistive products; rebuild housing and infrastructure in an inclusive manner, following the principles of universal design; and ensure the disability-inclusive design and implementation of humanitarian, migration and disaster risk reduction plans and policies (A/HRC/44/30).
3. The Independent Expert the rights of persons with albinism underscored the need to protect the health of persons with albinism from climate-related impacts by: making quality sunscreen and other sun protection products available, as well as physically and financially accessible, to persons with albinism; ensuring access to regular screenings and treatment for skin and eye health conditions close to their communities and that they are offered free of charge or at low cost; and integrate in all disaster preparedness, management and response strategies their specific needs, including protection from violence and discrimination in the aftermath of disaster situations (A/78/167).
4. The Independent Expert on the enjoyment of all human rights by older persons recommended ensuring meaningful opportunities for older persons to participate in all facets of disaster preparedness, response and recovery, as well as in data gathering and development of laws and policies. The Expert also underscored the need to ensure that older persons have access to: affordable or social housing in a location that is not unduly prone to disasters and that includes adequate heating and cooling systems, adequate insulation and affordable access to safe, clean, healthy and sustainable energy; long-term care facilities equipped for climate-induced disasters; public services and infrastructure adapted to withstand severe weather events and extreme temperatures to avoid disruptions that disproportionately affect older persons; and appropriate support and relief, including in planned relocation, with relief workers trained to protect older persons from the increased risk of violence, exploitation and abuse occurring during a climate-induced disaster, particularly older women (A/78/226). OHCHR recommended taking concrete action to preserve cultural heritage and Indigenous knowledge that is threatened by climate change with the participation of community elders (A/HRC/47/46).
5. The UN Working Group of Experts on People of African Descent recommended increasing the participation of people of African descent in the design and implementation of emergency response and adaptation measures (A/HRC/48/78). The UN Committee on Racial Discrimination is considering recommending temporary waivers of intellectual property protections on healthcare technologies, to mitigate the disparate impact of climate change and disasters, and discriminatory socioeconomic consequences (CERD/C/GC/37).
6. CEDAW recommended that States take effective steps to equitably manage shared natural resources and limit all environmental, technological and biological hazards and risks that contribute to climate change and disasters, which tend to disproportionately negatively affect women and girls; and increase access for women to risk reduction schemes **(**CEDAW/C/GC/37**)**. The Special Rapporteur on trafficking in persons, especially women and children recommended addressing the gender dimensions of trafficking in persons in the context of adaptation, displacement and disaster risk reduction (A/77/170).
7. CRC clarified that States should: identify climate change-related vulnerabilities among children concerning the availability, quality, equity and sustainability of essential services for children; avoid discrimination in the design and implementation of adaptation measures against groups of children at heightened risk, such as young children, girls, children with disabilities, children in situations of migration, Indigenous children and children in situations of poverty or armed conflict; take additional measures to ensure that children in vulnerable situations affected by climate change enjoy their rights, including by addressing the underlying causes of vulnerability; and target adaptation measures at reducing both the short-term and the long-term impacts of climate change (CRC/C/GC/26). The Special Rapporteur on trafficking in persons, especially women and children indicated that States must ensure the protection of the rights and best interests of all children, without discrimination, in particular in the context of climate-related migration and displacement, and planned relocation, and ensure the participation of children and young people in the design and implementation of climate-related disaster responses (A/77/170). The Maastricht Principles underscored the need to maintain the ability of future generations to prevent and respond to climate change, without shifting burdens to them.
8. Several guidance has also been developed in relation to human mobility caused by climate change (A/HRC/53/34), considering both cross-border/international migration and internal displacement (within the borders of a State), on a continuum between voluntary and forced mobility (A/75/207), whereby vulnerability is affected by multiple forms of discrimination and marginalization, and limited or no resources or options to make this movement likely to be adaptive. The Human Rights Committee noted the need for robust national and international efforts, including non-refoulement obligations towards individuals seeking asylum from the harmful effects of climate change, be they the results of sudden-onset events or slow-onset processes (CCPR/C/127/D/2728/2016).
9. The Special Rapporteur on the human rights of migrants emphasized the need for protecting the human rights to water and sanitation, adequate food and housing, access to health care, access to justice, social security, education, decent work, liberty, personal integrity, and family unity of all migrants affected by climate change, as well as upholding non-refoulement and the prohibition of collective expulsion. The Rapporteur recommended: ensuring that climate action reaches people moving and living in unstable, vulnerable and hard-to-reach areas; expanding and diversifying the availability of gender-responsive pathways (visas, humanitarian corridors, visa waivers, family reunification, regularization mechanisms, and temporary protection measures) to guarantee that all migrants who are unable to return to their countries owing to climate change are provided with a legal status; refraining from, and protecting against, forced evictions; resorting to planned relocation last, with the meaningful and informed participation of all affected persons, including migrants and receiving communities, and maintaining previous living standards; and taking measures to promote access to essential services and respond to migrants’ specific needs in the planning, response and recovery phases of emergency management, with particular attention to women and girls, LGBT persons, children, Indigenous Peoples, minorities, persons with disabilities, and older persons (A/77/189).
10. The Special Rapporteur on the human rights of internally displaced persons focused on people that are evacuated or flee their homes or places of habitual residence, whether to avoid the anticipated effects of a disaster, or in the aftermath of a disaster, and remain within the country’s borders in the context of sudden-onset and slow-onset climate change phenomena. The Rapporteur called for a holistic approach and joint actions by affected States and the international community, with the involvement of peace actors where the adverse effects of climate change interact with armed conflict. She recommended integrating climate change-related displacement into laws, policies and programmes on human mobility, and human mobility into laws, policies and programmes on disaster risk reduction and adaptation, with the meaningful and effective participation of affected communities with a view to addressing disproportionate impacts on vulnerable groups and supporting their agency. She further recommended: adopting and allocating resources to comprehensive adaptation and risk reduction strategies, to reduce exposure and vulnerability to slow-onset events; and accounting for displacement and integrating durable solutions from the early stages of prevention, preparedness and response, as well as in disaster recovery, rehabilitation and reconstruction plans (A/75/207).
11. The Special Rapporteur trafficking in persons, especially women and children clarified that States must recognize and effectively prevent, in the context of climate change, the increased risks of exploitation faced by internally displaced persons and ensure effective protection for them and host communities (A/77/170). The Rapporteur also recommended that States ensure the participation of migrant and displaced women in the development, implementation and monitoring of policies designed to prevent human trafficking in the context of climate-related displacement, migration and disasters; and integrate measures to prevent human trafficking arising in the context of climate change in action plans, programmes and measures relating to women, peace and security (A/77/170).
12. The Special Rapporteur on violence against women and girls recommended: ensuring that those whose claims for protection arise from sudden or slow-onset effects of climate change or natural hazards have access to fair and efficient refugee status determination procedures, to assess their needs for international protection, including on multiple grounds; adopting temporary protection arrangements or other pragmatic arrangements to provide protection for those forcibly displaced in the context of climate change, environmental degradation or natural hazards; integrating risk mitigation in the context of violence against women and gender-differentiated impacts into early warning, preparedness and disaster risk reduction strategies; and adopting gender risk analysis to monitoring and evaluating climate adaptation and disaster risk reduction policies (A/77/136).

 IV. Just Transition

1. The UN Working Group on Business and Human Rightsreferred to just transition as “the transition to a green and zero-carbon economy that is fair and inclusive, creates decent work opportunities and upholds the human rights of affected communities, in particular Indigenous Peoples and populations affected by energy poverty, through social dialogue and meaningful participation, particularly in decision-making on the use of land and natural resources.” The Working Group noted that “little progress has been made in providing the corresponding regulatory and governance frameworks needed to advance a just transition process”, pointing to: regulatory gaps; lack of meaningful participation of affected communities; lack of access to information, including data transparency; lack of community-based or participatory human rights, social and environmental impact assessments; lack of benefit-sharing agreements between businesses and communities; and lack of access to effective remedies for victims (A/78/155).
2. The Working Group also noted the need to: ensure policy coherence in the extractive sector; and review and renegotiate existing extractive contracts, concessions, procurement practices and bilateral and multilateral investment agreements to remove any regulatory constraints to just transition (A/78/155). The Special Rapporteur on international solidarity recommended reforming transnational corporate governance to ensure that corporate decision-making prioritizes the protection of international human rights threatened by climate change over profits and other financial interests (A/HRC/44/44). The Special Rapporteur on the right to development called on businesses to “embrac[e] decarbonization, phasing out fossil fuel, integrating circularity throughout their products and services and sharing green technologies (A/78/160). The Special Rapporteur on the right to a healthy environment recommended that States safeguard their ability to take ambitious and effective climate action, discourage foreign investments that undermine climate action and human rights, and encourage investment in the just transition. He noted that this requires eliminating exposure to international State-investor dispute settlement claims, and conducting ex ante and ex post impact assessments of trade and investment agreements (A/78/168). The Rapporteur also recommended requiring transparent and accurate disclosure of climate, environmental and human rights performance by businesses (A/HRC/55/43).
3. OHCHR and the International Labour Organization (ILO) articulated that just transition requires: the progressive realisation of economic, social and cultural rights; equitable access to the benefits of the transition process, as well as fair distribution of its burdens; shifting of economic models to those that create wellbeing of people and planet, gender equality, and the reduction of inequalities; protection of the rights of workers and communities affected by the ecological transformation from impacts on their livelihoods; investment in the creation of decent jobs and the provision of social security; participation of workers and trade unions to guarantee decent work, social protection, training opportunities and job security; reduced consumption and production driving excessive energy and resource demands, pollution and negative impacts on human health; and access to effective remedies for those who experience human rights violations or abuses.[[23]](#footnote-24)
4. The Special Rapporteur on extreme poverty proposed incorporating into Nationally Determined Contributions the following elements of a human rights-compliant just transition: financing through progressive taxation schemes; protecting workers and communities affected by the ecological transformation from impacts on their livelihoods; investing in energy, buildings, food and mobility, to capture the “triple dividend of a cleaner environment, decent jobs and affordable goods and services”; moving away from unsustainable consumption-driven growth and the “extractive and waste economy” towards prioritizing the reduction of inequalities; fighting against the premature obsolescence of consumer goods; and ensuring that the design and implementation of national action plans are based on social dialogue and the participation of people living in poverty (A/75/181/Rev.1). The Rapporteur recommended a job guarantee scheme, to provide services to the population that are currently undersupplied and a pathway to escape poverty (A/HRC/53/33).

 A. Intersectionality

1. CEDAW, CESCR, CMW, CRC, and CRPD called upon States to empower persons with disabilities in the just transition.[[24]](#footnote-25) OCHCR pointed to maximize employment opportunities for persons with disabilities, by offering accessible development of green skills and green job employment services, as well as ensuring that green contracts and green jobs promote disability inclusion (A/HRC/44/30); enable older persons’ participation in sustainable livelihoods, by facilitating their participation in job training and skills- building programmes, and access to credit and resources (A/HRC/47/46); and protect workers against adverse climate change impacts on food systems, as well as establishing universal social security systems that cover climate risks and impacts (A/HRC/55/37).
2. The Special Rapporteur on the human rights of Indigenous Peoples called for national regulation of just transition projects, to ensure that renewable energy projects located on or near Indigenous territories are allowed only after: adequate and participatory environmental and social impact assessments; free prior informed consent; appropriate remuneration and benefit-sharing (including access to national energy distribution grids) with Indigenous Peoples; and the prevention of negative health and environmental impacts, notably forced displacement or the degradation of the environment and means of sustenance of Indigenous Peoples. The Rapporteur recommended: Indigenous Peoples’ participation or co-ownership of renewable projects; transparent mechanisms to foster their leadership in the design and management of projects; redressing of the gap in funding for Indigenous Peoples’ own renewable energy, climate action and conservation projects; and priority for investment and financing initiatives aimed at improving Indigenous Peoples’ access to energy services and their development (A/HRC/54/31).
3. CRC cautioned against children’s forced evictions arising from the transition without prior provision of adequate alternative accommodation, and recommended child rights impact assessments as a prerequisite, with particular attention to the traditional territories of Indigenous children and the rights of children belonging to non-Indigenous groups whose rights, way of life and cultural identity are intimately related to nature. The Committee also called on donor States to develop rights-based programmes, and on States receiving international finance and assistance to consider allocating a substantive part of that aid specifically to child-focused programmes (CRC/C/GC/26).
4. The Special Rapporteur on freedom of peaceful assembly and association underscored that civic action, social movements and environmental human rights defenders play an essential role in ensuring a just transition (A/77/171), expressing alarm about mounting restrictions of the civic space, including repression and criminalization of climate activism (A/HRC/44/50; see also A/HRC/55/50). The Special Rapporteur on counter-terrorism and human rights called attention to the use of counter-terrorism laws to surveil peaceful climate activists (A/HRC/40/52). The Special Rapporteur on freedom of peaceful assembly and association called on States to adopt all necessary measures to ensure that climate defenders meaningfully participate in all just-transition policy development and implementation at all levels of decision-making; conduct thorough, prompt, effective and impartial investigations into killings and violence against civil society actors; ensure that perpetrators are brought to justice; and refrain from issuing official and unofficial statements stigmatizing climate defenders (A/76/222).

 V. Finance

1. Recent estimates of climate finance indicate that in 2022 developed countries provided and mobilised a total of USD 115.9 billion, of which 91.6 billion in public finance.[[25]](#footnote-26) There have been three sets of human rights issues identified in relation to climate finance: the obligation for developed States to provide sufficient finance to ensure protection of human rights from climate change negative impacts; setting priorities and enabling direct access to international funding for the most vulnerable human right holders; and preventing negative impacts on human rights from funded projects, including through safeguards. Treaty bodies are increasingly looking into these issues: for instance, in 2023, climate finance and cooperation were addressed in seven outputs by CRC, CEDAW and CESCR.[[26]](#footnote-27) The independent redress mechanisms of relevant international funds also document human rights violations arising from climate finance.[[27]](#footnote-28)
2. On sufficient finance, the Special Rapporteur on the right to a healthy environment called for: a global carbon tax with a floor price per ton for developing States and a higher floor price for developed States, which could cover as many emission sources as possible, and gradually increase every year (A/74/161); immediate debt relief to climate vulnerable States in the Global South; and a global wealth tax, as well as international levies on commercial air passenger travel and on emissions from international shipping.[[28]](#footnote-29) The former Special Rapporteur on climate change recommended removing subsidies for fossil fuels and tax avoidance schemes for major greenhouse gas emitting industries (A/78/255).
3. OHCHR indicated that: high-income countries should support with international finance developing countries’ investment in social protection systems as a first line of defence against the impacts of climate change on food insecurity; and States and international financial institutions should scale up international grant-based financing for climate action, especially to highly indebted countries, supporting investments in social security, to benefit groups in marginalized and vulnerable situations (A/HRC/55/37). The Special Rapporteur on the right to development called for sufficient, predictable and accessible adaptation funding to allow for climate-resilient, diversified economies that do not rely on limited, carbon-intensive sectors. The Rapporteur also indicated that funding should be new and additional rather than shifted from other climate or development aid, and should be primarily in the form of grants, to avoid adding to countries’ debt burdens (A/76/154). ITLOS underscored the legally binding nature of State obligations under the law of the sea to assist developing States, in particular vulnerable developing States, in their efforts to prevent, reduce and control climate change as a form of marine pollution, also from a finance perspective (Advisory Opinion No 31).
4. With regard to priorities and accessibility of climate finance, the Special Rapporteur on the rights to water and sanitation underscored that climate finance is often targeted to specific projects, requiring a level of research and planning whose cost is often unaffordable for vulnerable groups, who are most in need; and it tends to focus on building new infrastructure, or upgrading existing infrastructure, to the exclusion of funding for nature-based solutions that address the root causes of key problem. The Special Rapporteur on the human right of Indigenous Peoples called for allocating a part of the funding to support efforts of Indigenous Peoples to secure their land rights (A/HRC/54/31). The Special Rapporteur on cultural rights recommended funding also artists and cultural rights defenders (A/75/298), which supports the co-development of climate solutions that are based on plural knowledge systems. The Special Rapporteur on the right to development recommended that the Green Climate Fund improve access to finance for those particularly vulnerable to climate change impacts, consider ways to increase small-grant financing (A/76/154).
5. On safeguards, the Special Rapporteur on the right to a healthy environment indicated that climate funds should strengthen and harmonize social, environmental and human rights safeguards when financing projects; and adopt simplified procedures for Least Developed Countries and Small Island Developing States (A/74/161). The Special Rapporteur on the human rights of Indigenous Peoples underscored the need to: correctly identify, based on the principle of self-identification, the Indigenous Peoples that are/could be affected by a project and assess whether security of tenure over their collective lands may be affected by the project; require comprehensive and independent human rights and environmental impact assessments, free prior informed consent and benefit-sharing mutually agreed upon with Indigenous Peoples; establish effective, accessible, culturally appropriate and independent mechanisms for Indigenous Peoples to seek justice and remedy in cases of human rights violations or environmental harm resulting from these projects; establish monitoring and reporting mechanisms to track impacts of funded projects on Indigenous Peoples’ rights; and require project proponents to report periodically on their human rights and environmental impacts (A/HRC/54/31). The Special Rapporteur on the right to development recommended that the Green Climate Fund channel funding through entities that have enacted environmental and social safeguards through a transparent, inclusive and participatory process (A/76/154).

 A. Intersectionality

1. CEDAW called for **i**ncreasing budget allocations at all levels to respond to gender-specific disaster and climate change prevention, preparedness, mitigation, recovery and adaption needs in the infrastructure and service sectors; and investing in adaptability, by identifying and supporting livelihoods that are resilient to disasters and climate change, sustainable and empowering for women, and in gender-responsive services that enable women to gain access to and benefit from those livelihoods (CEDAW/C/GC/37). The Special Rapporteur on the right to a healthy environment recommended: increasing funding for grass-roots women’s organizations working on climate issues and for sustainable and regenerative actions led by women and girls; and providing gender-transformative climate grants for projects in low-income nations and Small Island Developing States that directly benefit women and girls, with their full and effective participation in design, decision-making and implementation (A/HRC/52/33).
2. The Special Rapporteur on trafficking in persons, especially women and children recommended thatStates and the UN ensure that gender equality and child rights are prioritized when making decisions on climate finance, and women participate in the allocation of financial resources, especially in crisis and conflict settings (A/77/170). The Special Rapporteur on violence against women and girls called on increasing investment in enhancing women’s sustainable livelihoods and resilience, as well as promoting their adaptive capacity, particularly for those working in agriculture, fishing, waste management and ecotourism; and in social protection systems to increase the capacity of societies and individuals to respond to climate impacts and to build resilience (A/77/136). The Special Rapporteur on extreme poverty noted that climate finance can increase gender inequality, if funders are not knowledgeable about the gendered impacts of climate change (A/HRC/41/39).
3. CRC recommended that States ensure that any climate finance mechanisms uphold and do not violate children’s rights (CRC/C/GC/26). The Maastricht Principles clarified that States with greater responsibility and capability should adequately contribute both financially and through all appropriate policies and measures, ensuring that the burdens of mitigating and remedying climate change do not fall on future generations. The Independent Expert on the international order recommended providing financial and technological resources, and platforms for youth-led projects and groups; and prioritizing initiatives run by young women from marginalized communities (A/HRC/54/28).
4. The Special Rapporteur on the human rights of Indigenous Peoples called for: ensuring direct financial flows to Indigenous Peoples by creating/redesigning flexible financing mechanisms that simplify application procedures and reporting requirements for Indigenous-led initiatives and projects; involve Indigenous Peoples in the design and implementation of funding opportunities from the outset, to ensure funding processes are responsive to their needs, priorities and aspirations, and align with their vision of sustainable development; and scale up funding for Indigenous women leaders and their organizations. Further, the Rapporteur recommended allocating resources to: enhancing Indigenous Peoples’ knowledge and understanding of green financing mechanisms; hiring legal, financial and technical advisers to Indigenous Peoples; overcoming infrastructure barriers that hinder access to financial mechanisms and processes for those in remote areas; and increasing the institutional, technical and financial capacity of Indigenous Peoples (A/HRC/54/31).

 VI. Loss and Damage

1. The Special Rapporteur on the right to development referred to climate-related loss and damage as the “negative impacts of climate change that occur despite adaptation and mitigation efforts” (A/76/154), keeping in mind that climate change impacts are experienced unequally, as underscored by the Independent Expert on international solidarity (A/HRC/44/44). Human rights issues identified in this connection concern: the nature of loss and damage; the right to remedy; and sufficient finance.
2. On the nature of loss and damage, the former Special Rapporteur on climate change pointed to loss of life, human health, land and ocean territories and their associated ecosystems, livelihoods, culture and heritage, and sovereignty (A/77/226). The Special Rapporteur on Cultural Rights underscored loss and damage to culture, cultural heritage and cultural rights resulting from or likely to result from climate change, as well as from mitigation and adaptation actions (A/75/298). Treaty bodies have increasingly expressed loss and damage-related concerns about: climate refugee women and girls (CEDAW/C/ESP/CO/9 and CEDAW/C/NIC/CO/7-10), and climate change-related food insecurity, destruction of property and loss of livelihoods as the result of floods and droughts, coupled with an unprecedented rise in temperatures (E/C.12/YEM/CO/3).[[29]](#footnote-30) OHCHR called for holistic measures to address loss and damage, and human rights analysis of related needs assessments, with the meaningful participation of those most impacted (A/HRC/55/37).
3. On remedy, the former Special Rapporteur on climate change and CRC emphasized that loss and damage raise from a human rights perspective, the right to remedy and the principle of reparations, including restitution, compensation and rehabilitation (A/77/226; CRC/C/GC/26). The Independent Expert on international solidarity called for adequate compensation for the human rights violations attendant on loss and damage (A/HRC/53/32). The Maastricht Principles indicated that the failure to avert, minimize and address loss and damage could be a violation of the human rights of future generations. The Special Rapporteur on the right to development called on human rights institutions and authorities to review and monitor States’ implementation with their duty to cooperate internationally and to remedy the adverse extraterritorial impacts of activities taking place under their jurisdiction (A/76/154). Similar questions have raised, in the context of pending advisory opinion proceedings, before the International Court of Justice in relation to the legal consequences of the failure to comply with climate change-related obligations, and the Inter-American Court of Human Rights, in relation to States’ obligations to provide reparations in the context of climate change.[[30]](#footnote-31)
4. On finance, the Special Rapporteur on the right to development recommended that developed countries: provide funding for loss and damage that adequately benefits vulnerable communities and low-income countries; prioritize grants over loans, to avoid aggravating the public debt of recipient States; and consider exchanging their historical carbon debt for debts incurred by low-income countries for development projects (A/76/154). CRC clarified that States should undertake measures, including through international cooperation, to provide financial and technical assistance for addressing loss and damage negatively impacting on the rights of the child (CRC/C/GC/26).

 VII. Conclusions and recommendations

1. This report has mapped a significant amount of guidance on human rights issues and applicable international human rights law obligations in relation to climate change mitigation including the use of technology and carbon credits, adaptation, just transition, finance, and loss and damage. These clarifications provide a basis upon which to build and further clarify States’ obligations, individually and through international cooperation, as well as the responsibility of business enterprises, to respect human rights in the further development of international climate change law and its implementation, as well as of other areas of international law that can contribute to respect and protect human rights in the context of climate change. The Rapporteur sees merit in further clarifying State obligations and business responsibility through a sector-by-sector approach, in the implementation of her mandate.
2. The present report stresses the importance of intersectionality for the promotion and protection of human rights in the context of climate change and maps out a number of relevant recommendations from Special Rapporteurs and Treaty Bodies.The Rapporteur will coordinate with these procedures and bodies in her future work, and welcomes comments on the synthesis of international guidance in the present report with a view to working with all stakeholders to advance intersectionality in the promotion and protection of human rights in the context of climate change. **It is essential to implement recommendations on intersectionality to prevent further discrimination from climate change impacts and response measures. It is also critical for the effectiveness of all climate action to recognize – on the same level as technical expertise – and to respectfully and genuinely engage with the lived experiences and distinctive knowledge of the human rights holders in situations of vulnerability, as agents of change.**
3. **To that end, the Special Rapporteur recommends that, with the effective participation of human rights holders, in particular those in situations of vulnerability:**

(a) **States, individually and through international cooperation, apply international guidance on intersectionality in developing, implementing, funding, monitoring, evaluating, learning from and reviewing climate action at all levels;**

(b) **States, UN entities and other international organizations, business, civil society and the research community integrate international guidance on intersectionality in climate change-related awareness-raising, education, research, capacity-building and technology-development activities.**

1. \* The present report was submitted to the conference services for processing after the deadline due to the start date of the mandate holder/ owing to circumstances beyond the submitter’s control. [↑](#footnote-ref-2)
2. https://legal.un.org/ilc/guide/8\_9.shtml. [↑](#footnote-ref-3)
3. The former mandate holder submitted amicus curiae briefs to ITLOS and the Inter-American Court: <https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/AmicusBrief-SRsto-ITLOS_May302023.pdf>; https://corteidh.or.cr/sitios/observaciones/OC-32/4\_Special\_Rapporteur.pdf. [↑](#footnote-ref-4)
4. A/HRC/Res/48/14 paragraph 2(g)(h)(k)(l)(m). [↑](#footnote-ref-5)
5. <https://unfccc.int/topics/introduction-to-mitigation>. [↑](#footnote-ref-6)
6. Joint statement 14/05/2020, https://www.ohchr.org/en/statements/2021/12/hri20191-five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights. [↑](#footnote-ref-7)
7. CIEL, States’ Human Rights Obligations in the Context of Climate Change: Guidance Provided by the UN Human Rights Treaty Bodies (2024 Update, forth,) [https://www.ciel.org/reports/human-rights-treaty-bodies-2024/](https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.ciel.org%2Freports%2Fhuman-rights-treaty-bodies-2024%2F&data=05%7C02%7Chrc-sr-climatechange-morgera%40un.org%7C0c4a859b88fb46f76cba08dc8eac18a4%7C0f9e35db544f4f60bdcc5ea416e6dc70%7C0%7C0%7C638542117003979622%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C0%7C%7C%7C&sdata=LGM8k5uRB9rgGH1B3L1YApOvq52DOlPvCcugVR96efQ%3D&reserved=0). [↑](#footnote-ref-8)
8. <https://www.ohchr.org/en/press-releases/2019/09/united-nations-climate-action-summit>. [↑](#footnote-ref-9)
9. https://www.ohchr.org/en/press-releases/2023/11/fossils-fuels-heart-planetary-environmental-crisis-un-experts. [↑](#footnote-ref-10)
10. https://www.ohchr.org/en/statements/2021/11/joint-statement-un-human-rights-experts-accelerate-end-coal-era-protect-human. [↑](#footnote-ref-11)
11. https://www.ohchr.org/sites/default/files/2022-03/climate-change-3-final.docx. [↑](#footnote-ref-12)
12. https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22002-13649%22]}. [↑](#footnote-ref-13)
13. Declarations of judges Infante Caffi and Pawlak, with the latter underscoring the relevance of the UN Human Rights Committee’s *Torres Strait Islanders* decision and the ECtHR *KlimaSeniorinnen* decision for the law of the sea. [↑](#footnote-ref-14)
14. BBNJ Agreement under the UN Convention on the Law of the Sea (adopted on 19 June 2023; not yet in force),Articles 7(h), 17, 27(c) and (f),28 and 39-40: https://www.un.org/depts/los/XXI10CTC%28EN%29.pdf. [↑](#footnote-ref-15)
15. https://www.ohchr.org/en/statements/2021/12/hri20191-five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights. [↑](#footnote-ref-16)
16. https://www.ohchr.org/sites/default/files/documents/new-york/events/hr75-future-generations/Maastricht-Principles-on-The-Human-Rights-of-Future-Generations.pdf. [↑](#footnote-ref-17)
17. https://www.ohchr.org/en/statements/2021/11/joint-statement-un-human-rights-experts-accelerate-end-coal-era-protect-human. [↑](#footnote-ref-18)
18. CBD Decision X/33 (2010), para. 8(w), which was reiterated in CBD Decision XIII/14 (2016). [↑](#footnote-ref-19)
19. https://www.ohchr.org/en/statements/2021/12/hri20191-five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights [↑](#footnote-ref-20)
20. https://unfccc.int/process-and-meetings/the-paris-agreement/article-64-mechanism. [↑](#footnote-ref-21)
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