*Submission for*:

Questionnaire in relation to Human Rights Council resolution 53/6 on human rights and climate change

Franciscans International, Sinfrajupe and the Anglican Communion welcome the opportunity to submit input towards the Office of the High Commissioner for Human Right’s report entitled “Human rights and climate.” We will provide inputs regarding questions where we have received information from partners in the course of our work on environmental justice and climate change, including question 1, and the combined response to questions 3 and 5 from the questionnaires. Where relevant, we cite previous submissions to other UN bodies and mechanisms.

We reiterate and center the fact that those that contribute the least to climate change face its most grave threats and effects. The capacity of these most vulnerable and impacted individuals and communities, often in the Global South, to deal with climate change impacts is often limited due to resources and also likely to be overwhelmed due to the frequency of events. Accordingly, it is often those that are poor and marginalized that are disproportionately impacted. In contrast, the Global North, which has contributed the most to climate change often has the infrastructure, financing, and capacity to adapt to loss and damage.

We further note that in moving forward to mitigate loss and damage and the impacts of climate change, the transition to green energy is being touted as the solution. However, the extraction and processing of minerals to produce solar panels, wind turbines and batteries cause social and environmental impacts. The concept of "clean energy" should be considered a contradiction in terms. The geopolitical dynamics that support climate transition also indicate a disproportionately higher energy consumption by the countries of the Global North, as well as their central role in the adoption of new power generation technologies with lower carbon emissions. At the same time, there is currently a concentration of extraction in countries in the Global South, and there are prospects for future expansion of critical minerals in those places.[[1]](#footnote-2)

1. *Please describe through concrete examples and stories the impacts of loss and damage from the adverse effects of climate change on the full enjoyment of human rights in your country. Please indicate whether the impact was exceptional or whether an example of many similarly situated cases. Please estimate the number of cases that may be similar in your country*.

Human rights are indivisible, interdependent, and interrelated; as such all human rights may be impacted by climate change. These range of impacts are only exceptional in the sense that they are defined as “once in a lifetime” or “unprecedented” – but the reality is that we have repeatedly seen similar manifestations and effects of climate change in starkly different locations. The only difference may be the scale of the devastation – relating both to how quickly a State can minimize impacts (such as by containing wildfires and the immediate destruction caused) or recover from them. Critically, however, such threats may be immitagable and pose dire, long-term questions on the survivability of communities in certain areas, State sovereignty, and the right to self-determination.

Accordingly, in addressing the impacts of loss and damage from the adverse effects of climate change on human rights, we first and foremost reiterate that the right to self-determination “is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights.”[[2]](#footnote-3)

Likewise, and as underscored by the Human Rights Committee, the effective protection of the right to life is a “prerequisite for the enjoyment of all other human rights.”[[3]](#footnote-4) The right to life, and life with dignity, is impacted by the adverse effects of climate change.[[4]](#footnote-5) Countless deaths and injuries have occurred as a result of extreme weather events brought by climate change. Many lives and livelihoods have also been irreversibly altered from slow onset events.

The right to an adequate standard of living includes adequate housing and food. Climate change, via its various manifestations and effects, impacts this right and accordingly, the right to housing. In recent years, this has included: 900,000 houses ‘razed’from floods in Pakistan in 2022; [[5]](#footnote-6) over 100,000 homes lost in 2023 from Cyclone Freddy;[[6]](#footnote-7) and hundreds of homes destroyed from wildfires in Canada in 2023.

While the destruction of homes may be an immediate impact of extreme climate-driven events, individuals and communities may also be forced to leave their homes as a result of slow-onset events, including those related to the right to food.

Kiribati is exemplary of impacts experienced by small island states. As most of the atoll islands in Kiribati are low-lying, the agricultural lands and crops are vulnerable to climate change.[[7]](#footnote-8) The fluctuation in sea-level has caused the intrusion of saltwater to agricultural land. The coastal communities in the Solomon Islands also experience similar events.[[8]](#footnote-9) The effects are poor-quality soil and low crop productivity. This has been exacerbated by other climate change events, such as inundation and changes in rainfall. Climate change threatens the I-Kiribati and Solomon Islanders’ ability to feed themselves, thus impacting their realization of the right to food. The resulting national scarcity of agricultural products has forced people to rely on imported food commodities to meet their everyday needs. These imports are essential for survival, but they are costly and people buy whatever they can afford.

The Americas, and Central America in particular, have also been hard hit by the effects of climate change. In particular, food shortages resulting from droughts devastate poor, rural and indigenous communities. In Guatemala, extreme weather induced droughts reduced agricultural production leading to food insecurity and compounding poverty. According to the Food and Agriculture Organization of the United Nations (FAO), drought-related food insecurity in Central America's Dry Corridor has left 3.5 million people in need of humanitarian assistance[[9]](#footnote-10) in Guatemala, Honduras and El Salvador.[[10]](#footnote-11)

This, together with other adverse impacts of these gradual climate change phenomena, exacerbated by organized crime, violence and the social and environmental impacts of megaprojects such as dams and mining, have been drivers of internal displacement for several years. In both Guatemala and El Salvador, the lack of state policies to address the impacts of mobility caused by climate change and in some cases, megaprojects (which in turn also contribute greatly to climate change) have intensified internal and cross-border displacement.

We note that the right to an adequate standard of living also includes “continuous improvement of living conditions.”[[11]](#footnote-12) CESCR further defined the right to housing as the “right to live somewhere in security, peace, and dignity.” We note that tropical storms, coastal erosion, sea level rise, flooding, erratic rainfall patterns, prolonged droughts, and desertification affect already precarious and marginalized people and communities, leaving them no other options but to flee to safeguard their lives and personal integrity. The impacts of climate change are often combined with other factors that spur migration. In Central America, for example, people working along the migratory routes showed that water scarcity became, first, a factor of internal displacement with the emergence of the so-called Dry Corridor.[[12]](#footnote-13) Years of drought in El Salvador, which have generated water stress,2 combined with gang violence and extreme poverty, have created social conflicts that spur displacement as well as cross-border migration. Coastal erosion in parts of Honduras, is similarly exacerbating pre-existing poverty, inequality and exclusion, forcing people to migrate.[[13]](#footnote-14)

In Brazil, the mineral extraction for energy transition as part of the climate solution has similarly caused tensions and conflicts. Assessments of the current and potential extraction of critical minerals indicates a series of ongoing conflicts and disputes over water, of deforestation and of pressure on indigenous lands.[[14]](#footnote-15) According to the Observatory of Mining Conflicts in Brazil (CNDTM, 2021), 87 conflict situations were identified involving the extraction or processing of minerals linked to the energy transition in 2020 alone.[[15]](#footnote-16)

*3. Please describe any specific measures, including public policies, legislation, practices, strategies, or institutional arrangements that your Government has undertaken or plans to undertake at a national, sectoral or sub-national level, in compliance with applicable international human rights law, to avert, minimize and address loss and damage, including equity-based approaches and solutions. Please also identify any relevant mechanisms for ensuring accountability, including means of implementation.*

*5. Please provide specific recommendations, if possible, on how to address the critical challenges that have been identified, including actions to be taken at country, regional, and global levels, as well as by different groups of stakeholders, Governments, development agencies, financing institutions, and others.*

Many critical challenges can begin to be addressed if laws, policies, agreements, and commitments that are already in place at the local, national and international level are fully implemented. For example, globally, this lack of implementation and effective follow-up is most glaringly illustrated by the continued shortfalls[[16]](#footnote-17) in funding for climate financing as well as the lack of robust NDCs by the Global North.[[17]](#footnote-18)

In the Philippines, the National Climate Change Action Plan 2011-2028[[18]](#footnote-19) calls for a moratorium on mining operations in protected areas. Current and projected large-scale mining projects, however, contradict this. In many instances where project proponents provide financial resources to conduct the free, prior and informed consent process (FPIC), the results of the meetings and consultations are unsurprisingly in their favor, leaving the indigenous communities misinformed and in a disadvantageous position. Such projects also inevitably have an adverse impact on the environment, in country already “highly susceptible to natural disasters and the impacts of climate change.”[[19]](#footnote-20) The June 2020 report on the Philippines by the High Commissioner for Human Rights also concurs with the fact that various large-scale projects are developed without the consent of indigenous peoples. [[20]](#footnote-21)

Similarly, in the Democratic Republic of the Congo, the Committee on Economic, Social, and Cultural Rights noted its concern, “about the effects of deforestation on climate change, and the fact that, although a moratorium was imposed on logging concessions in 2002, agreements for the exploitation of forest resources have continued to be granted (art. 11).”[[21]](#footnote-22)

In both the aforementioned cases, States had moratoriums - although not fully implemented - on extractive activities in order to minimize the impacts of environmental degradation and climate change. As noted by the Human Rights Committee, States must protect against “climate change caused by public and private actors.”[[22]](#footnote-23) In addition, the UN Committee on Economic, Social and Cultural Rights has underscored that the obligation of States to protect human rights “requires States parties [...] to ensure effective protection against [...] rights violations linked to business activities, and […] provide victims of such corporate abuses with access to effective remedies.”[[23]](#footnote-24) Accordingly, States should implement mandatory human rights and environmental due diligence laws, whereby such processes are regularly reviewed and monitored by State authorities. Such mechanisms must have clear procedures to ensure that all legislative or administrative measures, including those related to extractives, that may affect Indigenous peoples have their free, prior and informed consent.7 Likewise, in upholding the right to self-determination of Indigenous peoples, States and businesses must respect the right to say no to projects that affect them.

In cases where businesses cause or contribute to human rights violations and abuses, including those related to climate change, States should impose relevant criminal, civil or administrative sanctions through adequate proceedings.8 This should include effective redress mechanisms, including business accountability, and  that victims  of business activities are guaranteed their right to an effective remedy, including reparation and restoration of the environment where possible.9 As part of these processes, States should ensure that corporations preemptively avoid and prevent human rights abuses, including through legislation on domestic liability in cases where corporations “cannot prevent or mitigate the risks.”10

In their human rights due diligence policies, companies should consider climate change and environmental impacts on human rights, and how these may lead to displacement. This may include mapping areas where the company is working with communities vulnerable to or already affected by climate-induced internal displacement, including how climate change impacts may be a compounding factor and/or interrelated with other issues to drive migration and/or forced displacement.

In addition to the adoption and strengthening of relevant laws and policies, States should also establish and strengthen independent, public environmental institutions, particularly those that could effectively supervise and monitor the implementation of environmental policies, regulations and legislation, as well as public institutions that deal with emergency relief, including as related to sudden onset events.

1. Bruno Milanez: Climate Crises Critical Mineral Extraction and Their Effects in Brazil, October 2021. A joint publication of Diálogo dos Povos, Sinfrajupe, Movimento pela Soberania Popular na Mineração (MAM) and Grupo Política, Economia, Mineração, Ambiente e Sociedade (PoEMAS). [↑](#footnote-ref-2)
2. CCPR General Comment No. 12: Article 1 (Right to Self-determination) The Right to Self-determination of Peoples, Adopted at the Twenty-first Session of the Human Rights Committee, on 13 March 1984, para. 1 [↑](#footnote-ref-3)
3. Human Rights Committee, General Comment no. 36, Article 6: right to life, para. 2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement> [↑](#footnote-ref-4)
4. Id. at para. 62. [↑](#footnote-ref-5)
5. <https://www.preventionweb.net/news/after-successive-floods-pakistan-forced-consider-resilient-housing#:~:text=The%20Pakistan%20floods%20of%202022,Nearly%20900%2C000%20homes%20were%20razed>  [↑](#footnote-ref-6)
6. <https://reliefweb.int/report/mozambique/mozambique-severe-tropical-storm-freddy-floods-and-cholera-flash-update-no-12-28-march-2023>  [↑](#footnote-ref-7)
7. Franciscans International and partners reported on this in its joint UPR submission on Kiribati. S*ee*: <https://franciscansinternational.org/wp-content/uploads/2022/11/UPR35_Kiribati.pdf> [↑](#footnote-ref-8)
8. The intrusion of saltwater to agricultural lands were also reported during Franciscans International visit to the Island of Guadalcanal, Solomon Islands in October 2022. [↑](#footnote-ref-9)
9. Food and Agriculture Organization of the United Nations, FAO, Erratic weather patterns in the Central American Dry Corridor leave 1.4 million people in urgent need of food assistance. Available at:<https://www.fao.org/news/story/en/item/1191887/icode/> last accessed 04/04/2022. [↑](#footnote-ref-10)
10. Food and Agriculture Organization of the United Nations, FAO, Dry Corridor - Central America. Situation Report, 2016. Available at: [http://www.fao.org/3/a-br092s.pdf](http://www.fao.org/3/a-br092s.pdf" \t "_blank).  [↑](#footnote-ref-11)
11. Article 11(1) of CESCR [↑](#footnote-ref-12)
12. For more information, see the contribution of Center for Justice and International Law and Franciscans International to the call for submissions by the Special Rapporteur on the rights of migrant, April 2022. [↑](#footnote-ref-13)
13. Contracorriente, "The forgotten migrants of Honduras' Dry Corridor," February 11, 2022. Available at: [https://contracorriente.red/2022/02/11/los-migrantes-olvidados-del-corredor-seco-de-honduras/](https://contracorriente.red/2022/02/11/los-migrantes-olvidados-del-corredor-seco-de-honduras/" \t "_blank).   [↑](#footnote-ref-14)
14. Bruno Milanez: Climate Crises Critical Mineral Extraction and Their Effects in Brazil, October 2021. A joint publication of Diálogo dos Povos, Sinfrajupe, Movimento pela Soberania Popular na Mineração (MAM) and Grupo Política, Economia, Mineração, Ambiente e Sociedade (PoEMAS). [↑](#footnote-ref-15)
15. National Committee in Defense of Territories Against Mining, “Mining Conflicts in Brazil 2022, “ August 2021. Available at <http://emdefesadosterritorios.org/wp-content/uploads/2021/09/Mining-Conflicts-in-Brazil-2020_.pdf> [↑](#footnote-ref-16)
16. Shortfall in climate change cash grows ahead of COP28, 5 October 2023, <https://www.reuters.com/business/environment/un-green-climate-fund-pledges-reach-93-bln-second-replenishment-round-2023-10-05/> [↑](#footnote-ref-17)
17. Most vulnerable, most affected countries doing most to tackle climate crisis, UN Development Programme report, 28 October 2021, <https://www.undp.org/press-releases/most-vulnerable-most-affected-countries-doing-most-tackle-climate-crisis-un> [↑](#footnote-ref-18)
18. Climate Change Commission, National Climate Change Action Plan 2011-2028, available at: <https://climate.emb.gov.ph/wp-content/uploads/2016/06/NCCAP-1.pdf>  [↑](#footnote-ref-19)
19. Report of the United Nations High Commissioner for Human Rights, Situation of human rights in the Philippines, A/HRC/44/22, para. 10, https://www.ohchr.org/sites/default/files/Documents/Countries/PH/Philippines-HRC44-AEV.pdf [↑](#footnote-ref-20)
20. Id. at paras 65-73 [↑](#footnote-ref-21)
21. Concluding observations on the sixth periodic report of the Democratic Republic of the Congo, Committee on Economic, Social and Cultural Rights, 28 March 2022, E/C.12/COD/CO/6, para. 20 [↑](#footnote-ref-22)
22. Human Rights Committee, General Comment no. 36, Article 6: right to life, para. 62, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/261/15/PDF/G1926115.pdf?OpenElement> [↑](#footnote-ref-23)
23. General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, CESCR, 10 August 2017, para. 14 [↑](#footnote-ref-24)