



This conference report summarizes advocacy in favor of human rights during the COP-24 and infringements of potential attendees' civil and political rights by the Polish authorities, reviews relevant provisions of the Paris Agreement Implementation Guidelines, and highlights explicit references to human rights contained in other decisions adopted by the Parties in Katowice. The final page of the report highlights some of the opportunities for continued advocacy for the integration of human rights in the implementation of the Paris Agreement.

Mobilizing for Human Rights at the COP-24

The Katowice Climate Conference was marked by a strong mobilization of key stakeholders for the integration of human rights in climate action reminiscent of the Paris Climate Conference. Tasked with the adoption of the implementation guidelines for the Paris Agreement, COP-24 was a unique opportunity for Parties to deliver on the promises made in Paris to take into consideration their respective human rights obligations when implementing climate action. Additionally the celebration of the 70th Anniversary of the Universal Declaration of Human Rights coincided with the COP.

Shortly before the COP-24 began, the High Commissioner for Human Rights (HCHR) issued a letter to delegations about the importance of incorporating human rights in the implementation guidelines. Additionally, the High Commissioner briefly attended the conference in person becoming the first ever HCHR to attend any UNFCCC meeting. This outreach was strengthened by a joint letter released by 34 UN Human Rights Special Procedures calling for governments to integrate human rights considerations in the implementation guidelines.

Finally this COP also featured the highest number of events dedicated to human rights at any UNFCCC session, including an official side event by the Paris Committee on Capacity Building as well as many events organized outside of the conference venue. These events addressed a broad range of issues from the relevance of human rights to the implementation of the Paris Agreement to lessons learned regarding specific issues to the promises of human rights-related climate litigation.

Infringements of civil and political rights in the context of the COP-24

In early 2018, the Polish parliament adopted a law on the hosting of the COP that triggered concerns among civil society actors as well as UN authorities about the protection of civil and political rights during the conference. The law contained two problematic provisions regarding an exceptional ban on spontaneous protests during the conference and the

granting of additional surveillance powers to the police in relation to anyone associated with the conference. Five UN Special Rapporteurs expressed their concerns and suggested that the Polish authorities amend the law to ensure its compatibility with their international human rights obligations.

During the COP, several civil society advocates were denied entry to Poland despite having all required documentation and UN accreditation. The only justification provided by Polish authorities was that these persons constituted a “threat to the national security of Poland”. Additionally, at least two peaceful activists were arrested in their hotel rooms in the middle of the conference and their property searched with no apparent reason for such arrests. These incidents created a pernicious atmosphere and impacted the work of many organizations that needed to redirect part of their capacity to address these matters instead of working for ambitious outcomes at the conference. Several UN Human Rights experts issued a public statement expressing their “dismay at the actions taken by the authorities to prevent free and unfettered public participation in these critical multilateral discussions”.



Integrating Human Rights in the Paris Agreement Implementation Guidelines

Guidance for NDCs (APA, Agenda Item 3)

Throughout the process leading to the adoption of the Paris Agreement Implementation Guidelines, human rights groups and parties championing this issue made it a priority to secure an explicit reference to human rights in the context of the guidance provided to Parties for the communication of their future NDCs. In 2017, Norway tabled a written proposal resulting in the inclusion of an explicit reference to public participation, human rights and associated principles in the section of the guidelines related to the information that states should provide to promote Information, Clarity, Transparency and Understanding (ICTU). During the COP, this proposal was split into two subparagraphs: one addressing the dimension of the planning process (participation) and the other focusing on the substantive elements of the NDC.

Regarding the procedural dimension of NDC planning, the suggestion that Parties provide information regarding public participation was relatively uncontroversial and the wording attached to this guidance was actually strengthened in the final versions of the text (see text box).

Regarding the substantive dimension of the NDC planning, some parties objected to the inclusion of an explicit reference to human rights so this reference was first replaced by a reference to preambular principles of the Paris Agreement. As even such a reference proved too controversial, the final guidelines now call upon Parties to share information related to “other contextual aspirations and priorities acknowledged when joining the Paris Agreement”. While the decision provides a legally binding obligation for Parties to provide information contributing to ICTU (see para. 10 of the relevant decision and the legal mandate provided in article 4.8), the Parties shall include only the information that they deem “applicable to their nationally determined contributions” – which in practice indicates that parties might address these “contextual aspirations and priorities” only on a voluntary basis.

Draft decision -/CMA.1: Further guidance related to future Nationally Determined Contributions

10. Decides that (...) Parties shall provide the information necessary for clarity, transparency and understanding contained in annex I as applicable to their nationally determined contributions (...).

Annex I: Information to facilitate clarity, transparency and understanding of nationally determined contributions, referred to in decision 1/CP.21, paragraph 28

4. Planning processes:

(a) Information on the planning processes that the Party undertook to prepare its nationally determined contribution and, if available, on the Party's implementation plans, including, as appropriate:

(i) Domestic institutional arrangements, public participation and engagement with local communities and indigenous peoples, in a gender-responsive manner;

(ii) Contextual matters, including, inter alia, as appropriate: ...

c. Other contextual aspirations and priorities acknowledged when joining the Paris Agreement;

Adaptation Communications (APA Agenda Item 4)

While no Party proposed that the guidelines related to Adaptation Communications explicitly address human rights, the Parties discussed whether this guidance should require States to provide information regarding the fulfillment of the three principles included in Article 7.5 of the Paris Agreement: that adaptation action is participatory, gender responsive, and guided and informed by indigenous peoples and traditional knowledge. As such, the guidelines state that Parties communicating an Adaptation Communication might, as appropriate, include “information on gender-responsive adaptation action and information on traditional knowledge, knowledge of indigenous peoples and local knowledge systems related to adaptation, where appropriate”.

Transparency Framework (APA, Agenda Item 5)

While the modalities, procedures, and guidelines for the transparency framework do not explicitly refer to human rights, Parties might use several sections of these guidelines to include relevant information in their future reporting. Firstly, they are requested to include information regarding “legal, institutional, administrative and procedural arrangements for domestic implementation, monitoring, reporting, archiving of information and stakeholder engagement related to the implementation and achievement of [their] NDC” in their national report (para. 62). Such information could include information concerning relevant legal frameworks guaranteeing procedural rights. A similar requirement is included in the context of adaptation action as Parties should include information regarding “institutional arrangements and governance” and “[l]egal

and policy frameworks and regulations". Additionally, the guidelines for the communication of information related to adaptation action mirrors the three elements of article 7.5 of the Paris Agreement, as noted above, as Parties are required to communicate on "how (...) gender perspectives and indigenous, traditional and local knowledge are integrated into adaptation" as well as information concerning "Stakeholder involvement, including subnational, community-level and private sector plans, priorities, actions and programmes" (para. 109).

The COP decision addressing the provision by developed countries of ex-ante information related to the provision and mobilization of financial resources includes a requirement that such information includes information on gender responsiveness (Annex, (c)).

Global Stocktake (APA, Agenda Item 6)

In 2018, the Talanoa Dialogue highlighted the importance of an inclusive and participatory process for any dialogue focusing on collective ambition. Given the importance of the Global Stocktake (GST) as the central mechanism established under the Paris Agreement to shape the narrative around the need for further climate action and trigger Parties' enhancement of their ambition, ensuring that social dimensions of climate action are adequately reflected was a priority for many stakeholders. The modalities for the GST as adopted in Katowice stress that non-party stakeholders shall participate in the process and that the inputs to the GST include reports from UN agencies and submissions from non-Party stakeholders and UNFCCC observer organizations (para. 10 and para. 37 (f) and (i)). On the other hand the scope of the GST has been significantly reduced in the final versions of the text as references to sustainable development or the SDGs have been taken out of the text (para. 36).

Article 6 Mechanisms (SBSTA, Agenda Item 11)

Article 6, which includes market and non-market mechanisms, was the one part of the Paris Agreement Work Programme that Parties failed entirely to complete. Throughout COP-24, Parties discussed the guidance for participating in cooperative approaches through internationally transferred mitigation outcomes (ITMOs) (art. 6.2) and modalities for the so-called "sustainable development mechanism" (art. 6.4) as well as non-market approaches (art. 6.8). The discussions on articles 6.2 and 6.4 progressed throughout the conference and parties had developed a work programme for 2019 for article 6.8. Up until the final version of the text before it was all discarded, article 6.2 included a reference that Parties should include how the cooperative approaches include information about how the activities respect and do not threaten human rights in the information provided. The discussion of human rights in article 6.4 was contentious and the wording remained in brackets for most of the COP-24. However, the text leading into the final days did reference a grievance process and the need for local stakeholder consultation.

However, in the final hours of the conference, it became clear that no agreement could be reached on article 6 mechanisms. The primary reason appeared to be concerns from Brazil about the future use of CDM credits in the new mechanism. Thus instead of adopting guidelines for article 6, Parties agreed to continue discussions towards reaching a decision at COP25.

Integration of human rights in other relevant policy outcomes

Local Communities and Indigenous Peoples Platform

In Katowice, the Parties finalized the operationalization of the Local Communities and Indigenous Peoples Platform by agreeing to terms of reference for the Facilitative Working Group mandated to steer the activities of the Platform. In particular Parties and indigenous peoples' representatives agreed to an approach to enable the equal participation of Parties and

indigenous peoples with one representative from each of the regions. Additionally, they set out an approach for how to incorporate the participation of representatives of local communities to the platform in the future. Further, the UNFCCC Secretariat is mandated to develop incrementally activities related to the implementation of all three functions of the Platform at each session of the SBSTA. In the relevant COP decision, the Parties “emphasiz[ed], in its entirety, the United Nations Declaration on the Rights of Indigenous Peoples in the context of the implementation of the functions of the Local Communities and Indigenous Peoples Platform involving indigenous peoples.” This wording was considered to be an acceptable way to recall all provisions of the UNDRIP without singling out any specific one. The Canadian government also announced during the COP that it would finance the position of a focal point at the UNFCCC Secretariat to promote indigenous peoples’ knowledge and participation under the UNFCCC.

Warsaw International Mechanism on Loss & Damage

The COP considered the annual report of the Executive Committee of the Warsaw International Mechanism on Loss and Damage (WIM ExCom). This report built upon the outcomes of the work of the Task Force on Displacement. The Task Force’s report contained a strong focus on the role of human rights-based approaches to addressing climate displacement. The COP welcomed the report of the Task Force and invited Parties, UNFCCC bodies, UN agencies, and stakeholders to consider the recommendations put forward by the WIM ExCom as a result of the work of the Task Force. These recommendations include an invitation for Parties “to consider formulating laws, policies and strategies, as appropriate, that reflect the importance of integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change and in the broader context of human mobility, taking into consideration their respective human rights obligations and, as appropriate, other relevant international standards and legal considerations.”

Response Measures and a Just Transition

Prior to the COP-24, processes related to response measures and a just transition appeared to offer an opportunity to highlight the importance of the human rights framework to ensure that “no one is left behind” in the process of the decarbonization of the economy. While early drafts of the Presidency’s “Solidarity and Just Transition Silesia Declaration” contained a reference to the importance of labor and human rights, these references were removed from the final version of the declaration endorsed by 54 States in Katowice.

Similarly, prior to COP-24 the draft decision containing the “modalities, work programme and functions of the forum on the impact of the implementation of response measures under the Paris Agreement” contained a reiteration of the “rights of indigenous peoples, local communities, migrants, persons with disabilities and youth, as well as health, gender equality, empowerment of women and intergenerational equity”. Such a reference could have informed the work of the Forum on Response Measures and of the newly established Katowice Committee of Experts on the Impacts of the Implementation of Response Measures. This reference was however deleted before the adoption of the relevant COP decision.

Moving forward – implementing the Paris Agreement

Planning future NDCs

The finalization of key aspects of the Paris Agreement Implementation Guidelines enables Parties to focus on domestic implementation. In particular all Parties are expected to communicate new or updated NDCs by 2020. Consequently the coming two years offer the opportunity for all governments to consider the latest available science – particularly the IPCC Special Report on 1.5°C – as they determine their level of ambition. Additionally, the process leading to the planning of these new or updated NDCs must be fully informed by the human rights principles reiterated in the Paris Agreement preamble. The communication of the NDCs in 2020 will offer an opportunity for Parties to reflect on the participatory nature of these processes as well as how human rights, including the rights of indigenous peoples, gender equality, food security, just transition and ecosystem integrity informed the planning of their NDC.

Further integrating human rights under the UNFCCC and the Paris Agreement

The coming year will offer several opportunities to continue to work towards the further integration of human rights throughout the legal regime established under the UNFCCC. The finalization of the guidelines related to the Paris Agreement Article 6 will be particularly relevant to ensure that any new mechanism builds on the best practices in terms of the guarantee of procedural rights and the provision of effective remedies. Additionally several processes or bodies established under the UNFCCC or the Paris Agreement will provide opportunities to consider human rights based climate policies, including in relation to the Paris Committee on Capacity Building, the Gender Action Plan, the Koronivia Joint Work on Agriculture, or the Local Communities and Indigenous Peoples Platform. In addition, several Parties have reiterated during the COP-24 their call for the establishment of a Human Rights Focal Point at the UNFCCC Secretariat – building on the lessons learned with the Gender Focal Point.

The table below highlights some of the calls for submissions issued by the COP and its subsidiary bodies for the coming months with the highest relevance from the perspective of the integration of human rights in climate action. This list is not exhaustive – additional calls for submissions can be found on the UNFCCC submission portal:

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

Selected calls for Submissions in 2019	Deadline	Body	Document
Possible elements to be included in the terms of reference for the review Warsaw International Mechanism on Loss and Damage	1 Feb. 2019	COP	Decision -/CP.24 Report of the Executive Committee of the WIM
Views on possible activities of the Local Communities and Indigenous Peoples Platform	28 Feb. 2019	COP	Decision -/CP.24 LCIP Platform
Review of the progress, need for extension, effectiveness and enhancement of the Paris Committee on Capacity-building (PCCB)	31 March 2019	SBI	FCCC/SBI/2018/L.21
Views on the workplan of the forum and its Katowice Committee of Experts on Response Measures	15 April 2019	CMA	Draft decision -/CMA.1 Forum on the impact of response measures
Information on the implementation of the gender action plan, identifying areas of progress, areas for improvement and further work to be undertaken	31 August 2019	SBI	FCCC/SBI/2018/L.22/