

BRIEFING NOTE: COP28

Integrating Human Rights to Climate Action

The upcoming COP28, presided over by a petrostate with a detrimental human rights record and with an oil executive as its President, is an unprecedented symbol of the failure of the UN climate regime to advance the effective phase out of all fossil fuels that is required to limit warming to 1.5°C and meet human rights obligations, and represents the increasing corporate capture of the UN climate talks and other policy spaces.

At the same time, the IPCC's latest report warns of the dire need for rapid, economy-wide emission reductions in a world where billions are already facing the brunt of climate change. The global effort remains alarmingly off track to limit temperature rise to 1.5°C, to provide the necessary means for those on the frontlines of the climate crisis to adapt, and to meaningfully address and redress the loss and damage communities are facing. COP28 emerges as a critical moment for decisive action. The same IPCC report confirms that human rights-based climate action is more effective. This year's COP serves as a critical junction to reinforce the intersections between human rights and climate action, as many topics on the agenda provide an opportunity to strengthen the effective integration of human rights in climate action.

While we gather to demand climate justice, we do not lose sight of other massive injustices ongoing in the world and in particular the region where COP28 takes place. We condemn all forms of violence against civilians in Palestine and Israel. The prolonged occupation of Palestine, the decade-long blockade of Gaza and the recent outbursts of violence are in violation of international law and stand as barriers to peace and climate justice in the region. We call for all Parties in the conflict to adhere to international humanitarian and human rights law as well as to restore the rule of law and compliance with UN resolutions. UN human rights experts have [stressed](#) the risk of a genocide in Gaza if governments do not take swift action to prevent further international crimes. We demand an urgent and sustained ceasefire, and an end to all forms of apartheid, including climate apartheid. We also reject the silencing by governments of civil society activists and organizations as they demand respect for human rights in this context. Governments should all join civil society in demanding that human rights be immediately upheld in this crisis, not curtailing freedom of assembly and freedom of speech.

This briefing note outlines **the priorities and the key demands of the Human Rights and Climate Change Working Group** for COP28.

Key demands for COP28

- Urgent, full and equitable fossil fuel phase out
- Loss and Damage Fund rooted in human rights
- Strengthening synergies with the UN Human Rights system

Strengthening human rights-based climate action through key work streams

- Global Stocktake
- Just Transition Work Programme
- Global Goal on Adaptation
- New Collective Quantified Goal

Avoiding dangerous distractions that threaten human rights

- Carbon markets
- Unproven and dangerous technofixes

Upholding the rights to participate & to defend the environment and preventing undue influence

- Civic space in UNFCCC
- Preventing undue influence in the UNFCCC
- Protection of Land and Environmental Defenders in the context of climate action

Acronyms and Abbreviations

Key demands for COP28

- *Urgent, full and equitable fossil fuel phase out*

At COP28, states must commit to an urgent, equitable, full and funded phase out of all fossil fuels, and increased investments in renewable energy, as part of a comprehensive energy transition package leaving no one behind. Parties to the United Nations Framework Convention on Climate Change (UNFCCC) should endorse this package through negotiated outcomes, especially in the cover decision, as opposed to voluntary pledges.

The package must significantly improve upon the [Sharm el-Sheikh Implementation Plan](#) which made a new reference to accelerating clean and just transitions to renewable energy, but governments failed to commit to phasing out the use and production of all fossil fuels and all types of fossil fuel subsidies. The Plan repeats the call from COP26 to “accelerate efforts towards the phase down of unabated coal power” and “phase-out of inefficient fossil fuel subsidies.” The words “unabated” and “inefficient” imply a dangerous reliance on [unproven and harmful carbon capture and storage \(CCS\)](#) and other technologies that would purportedly “abate” fossil fuel emissions.

The commitment to a full, fast, fair and funded fossil fuel phase out must not be undermined by the promotion of risky and unproven technologies, which fossil fuel companies and fossil fuel producing states are increasingly doing. Technologies such as CCS, large-scale Carbon Dioxide Removal (CDR), and other geoengineering, [could not only delay emissions reductions, but also exacerbate the climate crisis](#) and harm human rights..

President-Designate Sultan Al Jaber is also the chief executive of the Abu Dhabi National Oil Company (ADNOC) – one of the world’s largest fossil fuel companies. The climate justice movement has expressed [serious concerns](#) about this appointment, emphasizing the glaring conflict of interest and calling for Sultan Al Jaber to resign from his executive role in ADNOC. Many have [raised concerns](#) that the UAE will use its presidency to ensure that fossil fuel companies and producing states can continue to expand production, rather than leaving fossil fuels in the ground, while relying on unproven technologies, risking humanity’s survival.

Recommendations for COP28:

- Adopt a commitment for all countries to **rapidly and equitably phase out all fossil fuels and all fossil fuel subsidies**, while recognizing the obligation for developed countries to provide new and additional, adequate and predictable climate finance to developing countries

and encouraging others in a position to do so, and to achieve a managed, equitable and human rights-consistent phase out of existing coal, oil, and gas production globally.

- **Exclude language and references implying a continued reliance on fossil fuels** such as “low-emissions energy”, “phasing out emissions from fossil fuels”, or “unabated fossil fuel emissions” and particularly to the use of CCS, CDR and geoengineering mechanisms which are either ineffective or unproven, have serious human rights implications and which [cannot be scaled up](#) within the time frame we have left to limit global heating to 1.5°C.
- Adopt a commitment for all countries to **cease all new oil, gas, and coal exploration and development**.
- Support a Declaration on Climate and Health that acknowledges the extent of **the threats that fossil fuels pose to health**.

- *Loss and Damage Fund rooted in human rights*

The historical landmark decision of COP27 to establish a Loss and Damage Fund (LDF) was the result of a decades-long fight for climate justice. Climate change exacerbates poverty, conflicts, inequality, and displacement worldwide, and is already affecting people’s right to life, a clean, healthy, and sustainable environment, to food, health, self-determination, adequate living standards, freedom of movement, and culture among others. This is a grave injustice, as those least responsible for causing climate change bear its harshest impacts. Wealthy nations which fueled climate change through decades of uncontrolled greenhouse gas emissions have a duty under the UNFCCC and Paris Agreement to rapidly transition away from fossil fuels and provide resources to enable marginalized communities and groups to adapt to the climate crisis, and to address the irreparable losses and damages incurred. Ensuring remedy for these communities, on the basis of States’ human rights obligations, must be a priority, but has long been neglected under the UNFCCC.

A Transitional Committee (TC), tasked with providing robust recommendations to operationalize new funding arrangements and the Loss and Damage Fund by COP28, finalized its recommendations for COP28 at an extra (fifth) meeting as a compromise and take-it-or-leave-it package with many flaws. These recommendations fail to deliver climate justice to communities as the Governing Instrument for the LDF developed does not respect the principles of Common but Differentiated Responsibilities, does not indicate the scale of the fund, does not put affected groups in the driver’s seat in decision-making about its funding priorities, and does not give any guidance that the Fund will operate consistently with human rights obligations. Independent of whether the package as concluded by the TC will be adopted as such or not, COP28 must give a clear signal that the LDF will be funded at scale, focus on meeting the needs and priorities of and reaching communities and marginalized, and operate in an inclusive, participatory, and human rights-compliant way.

Recommendations for COP28:

Operationalize the Loss and Damage Fund (LDF) in COP28 in a way that provides a transformational pathway to avoid the pitfalls of the currently inadequate and outdated climate finance infrastructure and to ensure that new and additional, grants-based finance for addressing loss and damage meets the needs and priorities of and urgently reaches those most impacted. This includes:

- **An independent Fund.** Legal standing for the LDF as an intergovernmental institution to operate independently as a **standalone fund**, under the UNFCCC will be critical to ensure it

can focus on its task at hand: addressing loss and damage. The World Bank’s Fiduciary Intermediary Framework, under which the Secretariat of the LDF is supposed to be set up ad interim, is not fit for purpose to host the LDF.

- If the recommendations of the TC are adopted as such, it will be crucial to keep and strengthen the guarantees that (1) **the World Bank is truly an interim and not a permanent solution**, (2) all conditions established by the TC (such as the Fund’s governing instrument and policies by the Board superseding the World Bank rules and procedures, and the ability of the Fund to realize enhanced community access to funding) are met in full by the World Bank otherwise the Board will recommend to the COP/CMA to kickstart the process for an independent fund and (3) even when the World Bank interim option is approved based on documentation provided, there is a clear exit strategy from the World Bank which is followed in the case that the World Bank does not meet the conditions in practice during this interim period, based on independent and strict scrutiny and evaluation.
- **A strong and inclusive Board** with proper legal authority and majority representation from developing countries, as well as representation of those it is meant to serve, by effectively and meaningfully including voices of Indigenous Peoples, affected communities and groups, - in particular women, children and youth, migrants and other affected and marginalized groups - and civil society organizations,- to ensure the most ambitious, just, and robust decision-making. A copy of the Green Climate Fund’s model for active observer participation in Board proceedings will not suffice for this new Loss and Damage Fund that is ultimately about people and justice. Additionally, the Board must guarantee that affected communities have representation and meaningful participation in the planning, monitoring, implementation and decision-making of local programs.
- **Adequately resourced direct access for communities.** The current recommendations recognize all vulnerable developing countries as eligible for the fund and state that the Board may develop procedures for small grants to “communities, Indigenous Peoples, and vulnerable groups”. However, it remains unclear whether this will be at all possible under the World Bank arrangement. This will be an absolute red line condition for civil society and Indigenous Peoples. Additionally, it will be critical to ensure that access to finance is as simple and direct as possible. .
- **Upholding critical guiding principles.** The LDF must align with the guiding principles of the UNFCCC and Paris Agreement such as Common but Differentiated Responsibilities Principles and equity, and human rights commitments. COP28 must give critical guidance to the Board to create policies and procedures that uphold these principles as LDF is meant to be the cornerstone of L&D finance.
- **Non-debt creating finance.** Many countries vulnerable to the climate crisis have a significant debt burden, which limits their fiscal space and negatively impacts the delivery of public services and thus the realization and protection of economic, social and cultural rights. The economic cost of climate-related loss and damage as well as traditional climate finance for adaptation and mitigation, mostly loans, is contributing to this debt crisis. Vulnerable countries shouldn’t be pushed further into debt as their way out of the climate crisis. LDF financing should primarily be public and exclusively grants-based and through non-debt-creating instruments and inputs.
- **Human rights-based approach.** To effectively design the LDF’s institutional arrangements, modalities, structure, and governance it is critical to ensure rights-based and comprehensive action, including by providing effective redress and remedy. The Fund should operate in a

culturally sensitive, human rights-based, non-discriminatory, and gender-responsive manner. Regardless of whether it is an independent fund or hosted through an existing institution, the LDF should have a dedicated set of human-rights based policies, such as a gender policy and Indigenous Peoples’ policy as well as an environmental and social policy as the framework for stringent social and environmental safeguards. Additionally, it should have a dedicated, independent grievance redress mechanism at the Fund level.

- **Resourced at scale.** Developed countries must demonstrate their commitment to the urgent operationalization of the Loss and Damage Fund by resourcing it at scale, based on needs. The Fund needs to operate at a scale of hundreds of billions of dollars. At COP28, developed country Parties must pledge new and additional resources. Additionally, COP28 must indicate a way forward for ensuring that equitable, alternative sources of finance based on the polluter pays principle will contribute to the resourcing of the Loss and Damage Fund.

- *Strengthening synergies with the UN Human Rights system*

Increasingly, critical guidance is given by UN Human Rights bodies, experts and mechanisms, such as the Human Rights Council, Human Rights Treaty Bodies, UN Special Rapporteurs, and the UN High Commissioner for Human Rights, around the legal obligations related to the climate crisis, and how States can design and implement climate policies in line with human rights obligations, including by focusing on specific groups. Parties should actively work towards increasing synergies between the UN Human Rights system and the UNFCCC, and include recent developments in negotiated outcomes.

One of those recent developments relates to children’s rights. In a new [General Comment](#), the Committee of the Rights of the Child (CRC) looks at the environment and children’s rights, with a focus on the climate crisis. Such an authoritative statement can provide critical guidance to Parties under the UNFCCC, as the vast majority of UNFCCC agenda items are currently child-blind, despite children representing one-third of the global population and facing disproportionate impacts on their rights. [Less than half of NDCs](#) and only [2.4% of climate finance](#) from the major Multilateral Climate Funds are child-sensitive.

In another crucial development, in 2022, the UN General Assembly voted a resolution universally recognizing the human right to a clean, healthy and sustainable environment. At COP27, this right was also recognized in the context of the UNFCCC. In a next step, Parties must now undertake efforts to further operationalize the right to a clean, healthy and sustainable environment in the context of climate action.

Recommendations for COP28:

- The COP28 [cover decision](#) should invite the SBI to **convene an expert dialogue on children rights, including and climate change at SB60** (June 2024). The purpose of this dialogue is to understand the implications of relevant evidence and data on children, build the capacity of Parties to respond, and share relevant knowledge and guidance on the design and implementation of child-responsive climate action.
- Take steps to ensure the **effective respect, protection and promotion of the human right to a clean, healthy and sustainable environment** in the context of climate action, including through future climate action such as Nationally Determined Contributions, and through relevant UNFCCC negotiation streams. A commitment and guidance to do so should be given through the Global Stocktake.

- Commit to **enhancing synergies with UN human rights organizations and institutions** in the light of more ambitious, effective and equitable international, regional and national climate action. Such commitments can be made through the cover decision, the Global Stocktake, and in the context of work streams mentioned below, as they relate to specific UN Human Rights bodies and mandates.

Strengthening human rights-based climate action through key work streams

At COP28, several work streams are either concluding or taking important steps, which are key to the effective integration of human rights in climate action, including the first Global Stocktake (GST), the Just Transition Work Programme (JTWP), the Global Goal on Adaptation (GGA) and the New, Collective, Quantified Goal (NCQG) for climate finance.

- *Global Stocktake*

COP28 will see the conclusion of the first [Global Stocktake](#) (GST), and as such it will set an important precedent for the process going forward. The GST takes place every five years, mandated by the international climate regime to assess collective progress towards achieving the objectives of the Paris Agreement. Effectively [integrating human rights into the GST](#) is essential, because all Parties to the Paris Agreement have international human rights obligations and have reaffirmed in the Paris Agreement to respect, promote and consider those in the context of climate action. Additionally, human rights-based climate action is more effective according to the IPCC.

Despite the commitment made in the Paris Agreement, Parties have failed to effectively implement their obligations in this regard. Of particular concern are the failure to take ambitious climate action in line with human rights obligations, resulting in significant and extensive human rights harms from both the impacts of the climate crisis and the continued reliance on fossil fuels; the failure to effectively integrate human rights in the preparation, content, and implementation of Nationally Determined Contributions (NDCs); and the failure to effectively address the violence against environmental defenders on the frontlines of the climate crisis.

The [synthesis report](#) of the technical phase of the first GST, capturing 1.5 years and three technical dialogues of discussions, confirms that integrating human rights leads to more ambitious and sustainable outcomes (§89), and that this entails the effective inclusion of marginalized groups (§91). This is an important basis for a GST outcome that changes course in the fight against the climate crisis, including by strengthening the effective integration of human rights in all climate actions from the local to the global level.

Recommendations for COP28:

- **Integrate human rights considerations [in a cross-cutting manner](#) in the GST Decision and related outcomes**, meaning that the role of human rights-based approaches should be considered on all topics, from mitigation to adaptation, finance and loss and damage, and through explicit commitments, including but not limited to specific groups such as Indigenous Peoples, women and diverse gender groups, and [children](#).
- Deliver a GST outcome that enhances the efforts and commitments by Parties to:
 - Put in place **a full and equitable phase-out of all fossil fuels** in line with the objective to keep warming to below 1.5°C and fulfilling Parties' human rights

obligations, and [excluding](#) any reference that opens the door for dangerous technologies that directly or indirectly prolong dependence on fossil fuels, are unproven, bet on overshoot, rely on offsets, or come with high human rights or environmental risks.

- Respect, protect, and fulfill human rights obligations, including in relation to the right to a clean, healthy and sustainable environment, the rights of Indigenous Peoples, and adopt intersectional approaches in **the planning, design, implementation and monitoring and evaluation of NDCs** and all other relevant policies, commitments and processes related to the implementation of the Paris Agreement.
- Uphold and reiterate the principles of equity and CBDR-RC, including in the **provision of new and additional, adequate and predictable finance** as core means of implementation in order to increase the ambition of climate actions under the Paris agreement and speed up their implementation, and ensure that **access to finance is enhanced by providing direct access to affected communities and population groups for locally-led and human rights-based implementation** of climate actions in line with their needs and priorities.
- Ensure **meaningful and effective public participation of all groups of society**, especially those who are furthest away, in the planning, design, implementation and monitoring and evaluation of all relevant policies, commitments and processes related to the implementation of the Paris Agreement including by ensuring access to relevant information for all.
- Enhance the recognition and **protection of environmental human rights defenders** in the context of climate action.

● *Just Transition Work Programme*

At COP27, governments decided to establish a work programme on just transition (JTWP) to discuss pathways to meet the goals of the Paris agreement recognising that “the global transition to low emissions provides opportunities and challenges for sustainable economic development and poverty eradication”. This mandate established a new track of negotiation under the UNFCCC that opened avenues to discuss the broader social and economic impacts of climate action, and the importance of leaving no one behind in the transition to low carbon and climate-resilient societies.

The global labor movement, as the constituency that has historically pushed for the just transition framework, [urges](#) Parties to respect the mandate of the Paris Agreement that reflects the importance of the labor focus of a just transition. After several informal consultations during SB58, a decision should be taken at COP28 to define the key elements of the JTWP, including its scope, objectives, outcomes, and institutional arrangements, with a historical opportunity to broaden the concept of just transition to address all the social safeguards that a transition should consider to respect human rights. To prepare for the negotiation, a workshop with the participation of Parties and observers will be held during COP28, informed by a call for submissions. In addition, as part of the JTWP, an annual high-level ministerial round table on just transition will be convened.

Although the just transition discussion is broader than the energy transition, the recent goals for tripling renewable energy [pushed](#) by the COP28 Presidency, IRENA and the Global Renewable Alliance and the acceleration on decarbonization agendas are proposing new significant challenges to

the climate justice movement. Thus, the establishment of a basic ground for a comprehensive just transition framework before scaling the energy transition in several territories has become a priority, specifically for Global South countries. The JTWP appears to be the right space to achieve that common understanding, and to establish processes and measures to prevent violations of human rights in a context of a rapid energy transition.

Recommendations for COP28:

- The JTWP should have a **standalone mandate with a central focus on, but not limited to the workforce dimension** of just transition. It should be open-ended, with decisions based on work developed intersessionally.
- The **scope should be comprehensive and founded on human rights**, by including all relevant sectors (energy, agriculture and food systems, transport, etc.) and considering all socio-economic dimensions of the climate crisis and its impacts on workers and communities towards a truly equitable, just, human rights-based and sustainable transformation. This includes a strong focus on the gender dimension, the role of Indigenous Peoples, small-scale food producers, children and youth, as well as other groups, like migrants, persons with disabilities, people experiencing poverty, especially affected by transition policies, and addressing the root causes of climate change, the destruction of ecosystems and biodiversity and rising inequalities.
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- The JTWP's content should **build on the right to social protection and effective social dialogue** with all relevant stakeholders at all policy levels, as well as other key notions developed by ILO's just transition framework, but also taking in consideration environmental and climate justice movements frameworks of just transition such as the ones developed by CJA and JTA.
- A system of **annual monitoring and reporting** to the COP, with participation from party and non-party stakeholders should be implemented. To that end, **an Advisory Body with representatives of social partners and relevant stakeholders** to provide the parties with independent information, advice and input on principles, measures and policies for just transition should be established. Workers' representatives, as well as other civil society sectors and groups, must be recognised and have a seat at the table in all discussion bodies overseeing just transition issues at the expert level. This should include their representation in the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI).
- The JTWP should **provide and receive input to and from all relevant UNFCCC work streams**. It should go beyond a platform to share good practices and should have the power to issue recommendations and policy advice. The annual high-level ministerial round tables on just transition should help in the guidance on JTWP implementation and its coordination with UNFCCC work streams, with the collaboration of the multi-stakeholder Advisory Body.
- **Recognise the mandate of UN processes outside the UNFCCC** on just transition, most importantly the role of the ILO as the recognised tripartite body and the ILO Guidelines on Just Transition, and actively engage with and learn from the wide range of initiatives and processes taking place outside the UNFCCC, including at [international human rights bodies](#), national-level tripartite bodies.

- *Global Goal on Adaptation*

The Paris Agreement established a Global Goal on Adaptation (GGA) of “enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response’ in the context of the mitigation goal of keeping temperature rise to a maximum of 2°C or 1.5°C (Article 7, para 1). At COP26, Parties launched a 2-year Glasgow-Sharm El-Sheikh work programme on the global goal on adaptation, to further define and substantiate the goal. At COP27, Parties agreed to develop a framework for the GGA, to be adopted at COP28 at the end of 2023. Potential elements for the framework include policy cycle dimensions, themes, cross-cutting considerations - including gender-responsive, participatory, and human rights approaches.

Recommendations for COP28:

The Global Goal on Adaptation (GGA) must advance understanding of key strategies required to enhance adaptation action, including through an explicit focus on the most affected communities and their rights. Parties should:

- Integrate **provisions that explicitly reference human rights**, including the rights of Indigenous Peoples rights and children’s rights, and related matters such as gender-responsiveness, disability inclusion and intergenerational equity as general and cross-cutting considerations in the GGA framework, including a focus on reaching those most at risk.
- Affirm **inclusive, intersectional and participatory approaches**.
- Identify targets for themes/sectors listed in Decision 3/CMA.4, prioritizing focus on **the resilience of essential services as underlying determinants of human rights**, including water, sanitation, health, nutrition (food and agriculture) and social protection (livelihoods).
- **Address the limited access to education and social protection**, as key elements underpinning transformative adaptation
- Mandate **the development of age-, gender- and disability-disaggregated indicators** under the GGA, in order to capture needs and progress for disproportionately affected groups.

- *New Collective Quantified Goal*

To date, climate finance mobilized and provided has been woefully inadequate on many levels. The scale of finance needed for mitigation and adaptation to say nothing of loss and damage is significantly greater than the unmet UD\$100 billion promised more than a decade ago, and likely in the trillions. The finance provided towards the US\$ 100 billion – according to [the most recent OECD estimate](#) US\$ 89.6 billion delivered in 2021 - is still predominantly going towards mitigation, and mostly delivered as loans, even for adaptation, making the net transfer of climate finance even smaller. While there is no agreed definition of climate finance, that does not mean anything - such as carbon markets - can be claimed as climate finance.

The new collective quantified goal (NCQG), which is to supersede the US\$ 100 billion goal from 2025 onward, must take these shortcomings and lessons into consideration by focusing not only on the quantity, but also the quality of the finance provided, by prioritizing grant-based and non-debt creating finance over loans and simplifying and enhancing access for recipient countries, and in particular direct grant access for affected communities and groups made vulnerable through

marginalization. A crucial consideration for quality is that it is governed and delivered in a human-rights based and gender transformative approach. It also must be ensured that such qualitative elements are captured in transparent reporting to account for the fulfillment of the NCQG in the future through improving upon the current provisions for reporting on finance under the Enhanced Transparency Framework.

With the three-year negotiations on setting the NCQG only to conclude in 2024 with its adoption at COP29, no major decision is expected at COP28. However, Dubai will mark the shift from the technical phase to the highly political phase of agreeing on the goal. In Dubai, a high level ministerial dialogue is supposed to provide political guidance on how to structure the work in the remaining year to arrive at the final outcome in 2024, as fundamental differences between countries are not of a technical nature, but strike at the heart of climate finance provision guided by equity and CBDR-RC and its continued relevance.

A new NCQG will have to be substantially higher, secure public finance provision as the core, and also address questions of scope, quality, timeframe and accountability of and increased access to climate finance, not the least by incorporating finance to address loss and damage as the third distinct financing pillar besides mitigation and adaptation and ideally setting thematic public finance sub-goals.

Recommendations for COP28:

- The High Level Ministerial Dialogue on the NCQG must provide important political confirmation and guidance that public finance mobilized and provided by developed countries **in line with core principles of equity and CBDR-RC** remains at the core of the NCQG which must be **science- and needs-based**.
- Political guidance must confirm **the structure of the NCQG as a multi-layered goal**, and include finance to address loss and damage as a distinct finance pillar with support to be provided in addition to financing for mitigation and loss and damage and anchored in the NCQG through respective thematic public finance sub-goals.
- Applying lessons learned from the US\$100 goal, political guidance at COP28 should clarify that both quantitative and qualitative elements must be integrated equally and substantively into the NCQG, specifying **human rights considerations and gender-responsiveness** explicitly as qualitative elements that should be further elaborated in the remaining four technical expert dialogues (TEDs), including with respect to improving access to finance under the NCQG.
- In taking stock of the results of the technical process so far, a procedural decision at COP28 must outline **an indicative time-line for the goal and affirm its dynamic nature**, ideally synchronized with regular assessments and upward revision in the Global Stocktake, leading to a ratcheting up of finance provision in line with the ambition of climate actions.
- A procedural decision at COP28 should **mandate further technical work** under the remaining four TEDs in 2024 to look at **how human-rights and gender responsiveness can be best anchored as cross-cutting qualitative elements** in a multi-layered NCQG, including how to transparently account for and report on them.

Avoiding dangerous distractions that threaten human rights

As the climate crisis has worsened, dangerous distractions ranging from offsets and carbon markets to unproven technofixes have become increasingly prevalent. These dangerous distractions do not present real solutions, but instead largely serve to perpetuate the fossil economy that is driving the climate crisis. Not only do these distractions threaten human rights by undermining real climate action, but the activities themselves can threaten human rights. At COP28, Parties must focus on real solutions. These dangerous distractions must be avoided across workstreams ranging from Article 6 to the Global Stocktake.

- *Carbon markets*

Carbon markets and offsetting will not solve the climate crisis nor provide elusive climate finance. On the contrary, offsetting enables the continued production and use of fossil fuels on the promise that those emissions will be offset through purchased credits generated by activities elsewhere. This does not reduce emissions and instead can lead to increased emissions given that offset credits are not always what they seem. Despite claims made that carbon market activities can increase climate action and benefit Indigenous Peoples, and local communities, too often the reality is the opposite. Throughout 2023, [report](#) after [report](#) has come out [highlighting](#) that not only do carbon markets and the emissions reductions credits they generate not do what they claim, but they also harm communities. While finance for climate action, including for the protection and restoration of forests and ecosystems, is needed and woefully inadequate, carbon credits authorized under Article 6.2 and 6.4 or through voluntary carbon markets are not a form of climate finance and must not be claimed as such.

At COP28, Parties will work to further operationalize the carbon markets. Given the potential for Article 6 carbon markets to undermine the Paris Agreement, this must be done with the utmost caution and in a manner that ensures the highest level of environmental integrity, transparency, and respect for human rights and the rights of Indigenous Peoples. Carbon markets should also not enable other dangerous distractions, such as those identified below, by allowing such activities to generate emissions reduction credits.

Recommendations for COP28:

- Adopt **more stringent rules** for transparent reporting on and review of internationally transferred mitigation outcomes (ITMOs) under article 6.2, and meaningful measures to **address instances of non-responsiveness** to recommendations from the technical expert review teams, including that ITMOs can be frozen, halted, or canceled when concerns, including negative human rights impacts, are identified.
- All ITMOs under Article 6.2 or activities under the Article 6.4 mechanism must be **reviewed in accordance, and comply with robust and high integrity guidance** adopted by the CMA or, in the case of the latter, the 6.4 mechanism Supervisory Body.
- **Exclude emissions avoidance activities** from being eligible for crediting.
- Carefully review the recommendations from the Article 6.4 Supervisory Body and do not accept recommendations that would undermine human rights, environmental integrity or the integrity of the Paris Agreement. Instead, adopt measures to ensure that **carbon market activities only include those that allow for rapid, genuine emission reductions** and facilitate the transition away from fossil fuels, and **do not include carbon capture and storage or carbon removal activities (whether land or engineering based)**.

- Before allowing for any carbon market activities to take place under Article 6.4 ensure that all governance elements are in place, including:
 - Establishing **concrete requirements and tools to ensure carbon market activities are properly regulated**, especially with regard to leakage and reversal, and respect all human rights and the rights of Indigenous Peoples, without introducing exceptions related to national circumstances and/or national practice concerning environmental and human rights impacts.
 - Establish **a fully independent, accessible, and transparent grievance redress mechanism** to ensure that communities can seek remedy for any harm caused by projects carried out under Article 6. Such a mechanism must not have unnecessary barriers to access, for example fees, and languages that would make it difficult for communities to use.

- *Unproven and dangerous technofixes*

Reliance on harmful and risky technologies such as carbon capture and storage (CCS), 'blue' hydrogen/ammonia and, carbon dioxide removal (CDR), that prolong dependence on fossil fuels, [threaten human rights](#) because they diminish the chances of keeping global temperature rise below 1.5°C, and because they come with specific environmental and human rights risks. Additionally, technologies such as solar geoengineering, aiming to change the Earth's radiative forcing, could cause acid rain and ozone depletion, disrupt storm and rainfall patterns at a large regional or global scale, and reduce the growth of crops. There is a further danger of 'termination shock': if Solar Radiation Management (SRM) were deployed but then stopped, intentionally, accidentally, or because of human error or political changes, it would cause temperature to rapidly increase to levels that societies and ecosystems would not be able to adapt to. These technofixes have also been overpromised, serving as a pretext for further investment in fossil fuels, particularly fossil gas, and perpetuating the misconception that reliance on dirty energy and feedstocks can continue for decades. Comprehensive evidence indicates that these technologies are not only unnecessary, but also costly, risky, and unjust, especially for communities directly impacted by [environmental effects or other human rights-related impacts](#) of geoengineering and other dangerous purported technofixes. Despite this, countries and companies continue to promote these technologies, thus allowing them to divert attention and resources away from the necessary phase-out of fossil fuels.

Scientific consensus underscores that renewable energy sources, particularly solar and wind, are the most cost-effective and have the highest potential for effective mitigation in this critical decade. These dangerous distractions continue to redirect resources from safe, rapidly scalable, and real solutions as well as just transition. Based on States' human rights obligations, including the guarantee of the right to a clean, healthy and sustainable environment, and the precautionary principle, Parties have to implement available and existing measures to mitigate greenhouse gas emissions instead of relying on dangerous and speculative "carbon management" and geoengineering.

Recommendations for COP28:

- **Do not promote dangerous distractions** that are unproven at scale, pose risks to environmental integrity and human rights, and prolong the dependence on fossil fuels, in any

of the COP outcomes directly or indirectly through the use of weasel words (i.e. “unabated fossil fuels”).

- **Exclude carbon removal activities from carbon markets**, including the Article 6.4 mechanism.

Upholding the rights to participate & to defend the environment and preventing undue influence

The challenges experienced at COP27, including access restrictions, surveillance, and reports of harassment, raise concerns about potential rights restrictions at COP28, especially considering the repressive atmosphere in the UAE. It is crucial to include civil society and Indigenous Peoples in these discussions to ensure effective oversight of governmental actions and to enhance public understanding of the issues at hand. The respect for fundamental rights, both within and outside the COP28 venue, is a cornerstone for meaningful dialogue and progress. This respect extends particularly to environmental human rights defenders, whose rights and lives are constantly threatened in their fight for land and environmental protection.

- *Civic space in UNFCCC*

The meaningful and inclusive participation of a broad range of civil society actors and Indigenous Peoples at UN climate conferences and the exercise of their rights to freedom of expression, association and peaceful assembly are crucial to ensure scrutiny of governmental action, to provide diverse inputs that can shape states’ decisions, and to assist knowledge sharing between global policy making processes and the public. Freedom of expression includes the right to access information and the right to privacy. Free exercise of these rights is essential to foster global efforts to address the climate crisis¹. However, civic space around the world is shrinking and the right to peaceful protest – including by climate activists – is being eroded in many countries by both states and corporations, including fossil fuel companies.

The UNFCCC has a responsibility to ensure that UNFCCC meetings are open, safe and inclusive spaces. At SB58 in June 2023, specific concerns were raised about the security and safety of delegates and observers, and [conclusions](#) on the Arrangement of Intergovernmental Meetings (AIM) reiterated the importance of the protection of human rights. It also specifically recommended that Host Country Agreements (HCAs) should be made public consistently with the UN Charter. The HCA with the UAE has not been made public, despite these conclusions endorsed by all Parties and requests by some observers during organizational meetings for information on the status of the HCA.

COP27 in Egypt, a country with an extremely poor human rights record and a very restricted civic space, was marred by access issues and reports of harassment, [exclusion](#) and surveillance of some civil society participants, and a surge in [arbitrary detention and interrogation of Egyptians](#) in the run up to COP27, leading to a climate of fear for participants attending. These challenges also severely hindered civil society’s core contribution to COP27 - providing substantial inputs to the negotiations.

¹ The UN Special Rapporteur on Freedom of Peaceful Assembly and of Association has made useful recommendations on [civil society participation in multilateral institutions](#) and on the essential nature of these freedoms to [advancing climate justice](#).

There are fears that participants could face similar – or even more severe - restrictions on their rights at COP28, which will take place in the [extremely repressive atmosphere](#) of the United Arab Emirates, a state with restrictive laws on freedom of expression, association and peaceful assembly, which has not ratified core human rights treaties and where there is effectively no civic space for Emiratis to hold their government accountable. Scores of individuals remain arbitrarily detained for peacefully expressing their views, or for reasons of discrimination and the UAE has ignored calls [for their immediate and unconditional release](#).

Recommendations for COP28:

- **The UAE, as incoming President of COP28, should demonstrate its commitment to human rights** by releasing all those arbitrarily detained solely for the peaceful exercise of their human rights or for reasons of discrimination and amend or repeal unduly restrictive laws, and all Parties to the UNFCCC should insist on [meaningful improvements in the human rights situation in the UAE](#) ahead of COP28, particularly the release of prisoners of conscience and the repeal of repressive laws limiting freedom of expression, association and of peaceful assembly, and those discriminating against women and girls and LGBTQI+ individuals.
 - **Egypt, as outgoing President of COP27, should demonstrate its commitment to human rights** by immediately and unconditionally releasing all those arbitrarily detained solely for the peaceful exercise of their human rights, ending reprisals against human rights defenders and civil society workers, and amending repressive laws and practices that unduly restrict the rights to freedom of expression, association and peaceful assembly. All Parties to the UNFCCC should urge Egypt to do so.
 - The UNFCCC Secretariat and the UAE, as incoming Presidency, should uphold [their promise](#) to make COP28 the most inclusive COP to date by **ensuring a safe environment for all observers**, ensuring all persons can freely express themselves and peacefully demonstrate ahead of, during, and after COP28 inside and outside the COP28 venue, and facilitate meaningful observer participation, including by providing clear and timely information about meetings and opportunities for observer participation, supporting observers from developing countries to ensure balanced participation, ensuring adequate space in meeting rooms and putting in place full, effective, and meaningful remote participation modalities.
 - The UNFCCC Secretariat and all Parties should affirm publicly ahead of COP28 that **public participation and civic space will be fully protected without discrimination from interference at COP28**, and publicly denounce all cases of reprisals and acts of intimidation against participants in UNFCCC meetings, and the UNFCCC Secretariat should identify and publicize a focal point for reprisals, with a mandate to collect information, to share it with the UN Assistant Secretary-General for Human Rights, and facilitate redress;
 - The UNFCCC Secretariat should **publish the host country agreement** with the UAE and all future host country agreements.
- *Preventing undue influence in the UNFCCC*

Governments’ increasing accommodation of private sector interests and the power imbalance stemming from avenues of influence available to corporate versus non-profit interests [favors for-profit interests](#) in internationally negotiated outcomes. This undermines access to information

about climate change, meaningful participation in multilateral discussions and negotiations by affected populations, and remedy for those harmed. It also undermines the rights of organizations and individuals representing affected groups to participate in and shape such negotiations through diverse inputs and to ensure scrutiny of governmental action. It results in state and corporate policies that are not adequate to limit the global temperature rise to 1.5°C, threatening the whole of humanity. The UNFCCC has begun work on [addressing conflicts of interests of participants](#), and this year has begun collecting more information about participants' organizational affiliations, but as yet there is no agreed policy to prevent corporate capture of the UNFCCC space. It is time to [kick big polluters out](#).

Recommendations for COP28:

- The UNFCCC Secretariat should ramp up its efforts on preventing corporate influence in the process, and adopt an appropriate definition of 'conflict of interest', and a rigorous conflict of interest framework that:
 - prevents entities with private interests from unduly influencing or undermining national and international climate policy;
 - strengthens the procedures for admission of observers within the UNFCCC and its instruments; and
 - draws on established international precedent in a manner that is appropriate for the UNFCCC context.
- In the absence of an agreed policy to address conflicts of interest and to not undermine the objectives of the UNFCCC any further, the Secretariat should [stop inviting](#) industry trade associations and other entities which represent and/or are beholden to the interests of polluting industries to present their views during the UNFCCC negotiation process, workshops or other events.
- ***Protection of Land and Environmental Defenders in the context of climate action***

On average, one land and environmental defender (LED) has been [killed every two days](#) since 2012. [In 2022](#), there were 355 non-lethal attacks against 536 distinct individuals, communities, organizations, and unaffiliated groups. Reports further indicate that land and environmental defenders were [the most targeted sector](#) in 2022, with a [recorded](#) 401 human rights defenders targeted for killings, 48% of whom were identified as environmental and land defenders. Despite all the existing legislative and policy frameworks made at both regional and global levels, attacks against environmental and land defenders continue to rise at an alarming rate.

According to [the IPCC](#), the decisions and actions we take in this decade will have long-term impacts on our environments and lands. The environments and territories of Indigenous Peoples and those of local communities are already being drastically impacted. Members of Indigenous Peoples and of local communities are the most visible and vocal LEDs: not only do they speak out against carbon-intensive industries, they also expose harmful business practices that undermine fundamental human rights, environmental protections, and land tenure.

The ongoing, rapid and unchecked escalation of anthropogenic activities in marine and coastal environments has [caused the rise of human rights issues and violations](#) to increase in ocean

communities, particularly for small-scale fishers) and the [Environmental Justice Atlas](#) records 766 mobilizations of fisher people against oil, renewable energy, tourism, mining, fisheries, aquaculture, and water infrastructure developments that pollute the environment, undermine fisheries, and threaten livelihoods .

There is an urgent need to recognise the role of environmental defenders in addressing climate change; protection and expansion of defenders' rights including the rights to freedom of association, assembly, expression and privacy; and their meaningful participation at both the local and multilateral level to achieve climate justice. An enabling environment for civil society and environmental defenders is essential for addressing the climate crisis and ensuring a just transition.

Recommendations for COP28:

To ensure that COP28 effectively contributes to the recognition and protection of LEDs, Parties must commit to:

- Include LEDs and communities in climate decision-making, promoting meaningful participation to advance climate justice;
- Commit to and implement a transition away from fossil fuel production and consumption;
- Adopt a human rights-based approach in the Global Stocktake outcome, including by recognizing the important role of, and the need to increase protection of, LEDs to effectively enhance the ambition of the Paris Agreement.
- All Parties to the UNFCCC should make support for civil society's participation in global climate decision-making a foreign policy priority, including by increasing political and diplomatic efforts to protect environmental and human rights defenders as well as climate activists.

This is the Human Rights and Climate Change Working Group's [Briefing Note for COP28](#). The [Human Rights and Climate Change Working Group](#) advocates for climate policies that effectively promote and respect human rights. For additional information, please contact Camilla Pollera (cpollera@ciel.org) or Lien Vandamme (lvandamme@ciel.org).

Acronyms and Abbreviations

ADNOC	Abu Dhabi National Oil Company
AIM	Arrangement of Intergovernmental Meetings
ALLIED	Alliance for Land, Indigenous and Environmental Defenders
CBDR–RC	Common but Differentiated Responsibilities and Respective Capabilities
CCS	Carbon capture and storage
CERI	Children’s Environmental Rights Initiative
GGA	Global Goal on Adaptation
GST	Global Stocktake
HCAs	Host Country Agreements
ILO	International Labour Organization
ITMOs	Internationally transferred mitigation outcomes
JTWP	Just transition work programme
LEDs	Land and Environmental Defenders
LDF	Loss and Damage Fund
NCQG	New, Collective, Quantified Goal
NTCP	New technologies for climate protection
SRM	Solar Radiation Management
TC	Transitional Committee
TEDs	Technical expert dialogues
UNFCCC	United Nations Framework Convention on Climate Change