



CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW



Global Initiative  
for Economic, Social  
& Cultural Rights

# States' Human Rights Obligations in the Context of Climate Change

Guidance Provided by the UN Human Rights Treaty Bodies

2024 Update



## Overview

Human Rights Treaty Bodies (HRTBs) are the expert bodies established by the international human rights treaties and mandated to monitor their implementation by the State parties to those treaties. The HRTBs are made up of independent human rights experts elected by the State parties. They have three main activities: reviewing States' implementation of the relevant human rights treaty (State reporting procedure, which consists of the review of a report submitted by the State party and entails the pre-sessional working group and the list of issues; the constructive dialogue and concluding observations); elaborating General Comments (GC) or statements which provide guidance to States on the interpretation of the treaty; and adjudicating Individual Communications (complaints of violations of the treaty by a State party) and issuing decisions.

*States' Human Rights Obligations in the Context of Climate Change: Guidance Provided by the UN Human Rights Treaty Bodies* builds on previous reports by adding information and analysis on the work of HRTBs on climate change in [2020-2021](#) and [2022](#). Our analysis considers the work of the seven HRTBs whose mandates relate most directly to climate change (see Table 1 for the list of the HRTBs and some of the rights and principles most relevant to climate change contained in the respective legal instruments).

In 2023, the HRTBs continued to address climate change in the context of their work. They issued 112 references to climate change in the outputs - meaning the Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs) - to States as part of their State reporting procedures (fifty-two LOIs/LOIPRs and sixty COBs respectively). This represents an increase compared to previous years, as the analysis below shows. While climate featured quite heavily in HRTBs' State reporting procedure, no individual communication relating to climate change was decided upon in 2023.

Important advancements were made in the context of General Comments. The Committee on the Rights of the Child (CRC) finalized its [General Comment No. 26 \(2023\) on children's rights and the environment, with a special focus on climate change](#). The GC emphasizes the urgent need to address the adverse effects of environmental degradation, with a special focus on climate change, on the enjoyment of children's rights, including their right to a clean, healthy and sustainable environment, and clarifies the respective obligations of States. Building upon the recognition of the right to a clean, healthy, and sustainable environment by the UN General Assembly in 2022 ([UNGA resolution 76/300](#)), the GC states that the right to a clean, healthy, and sustainable environment encompasses the whole Convention. An analysis of this General Comment can be found in the section focused on the CRC.

The Committee on the Rights of People with Disabilities (CRPD) is preparing a General Comment on persons with disabilities in situations of risk and humanitarian emergencies to clarify State parties' obligations pursuant to Article 11 of the Convention. Given the Committee's increased attention over the years on the human rights implications of climate-driven disasters and events on persons with disabilities and the need to take measures to address and mitigate their climate vulnerability, it is highly likely that the GC will build on the Committee's previous work at the intersection of human rights and climate change. In 2023, a [Day of General Discussion](#) was held in March to inform the drafting of this GC. The Committee on Economic, Social and Cultural Rights (CESCR) continued its work on the GC on Sustainable Development, holding a Day of General Discussion in February 2023 to inform the content of the GC.

It is worth recalling relevant developments in other international fora as they have the potential to contribute to the understanding of how States' human rights obligations apply in the context of climate change. The Human Rights Council (HRC) Advisory Committee adopted, in August 2023, a report on new technologies for climate protection ([UN Doc. A/HRC/54/47](#)), which addresses States' human rights obligations with regard to geoengineering technologies. These are large-scale technological interventions, most of them scientifically unproven, in the Earth's natural systems to counteract some of the effects of climate change. This report is the first to look at the human rights dimensions of such technologies and approaches and provides an important reference as discussions on geoengineering technologies are intensifying in other fora and processes. The report strongly stresses that human rights standards and obligations apply to all climate action and should guide decision-making and risk assessment related to the potential deployment of new technologies for climate protection. It highlights the uncertain nature of many of these technologies and their potential to undermine human rights and to "cause physical, political and social risks to frontline communities, including Indigenous Peoples, and harm the environment."<sup>1</sup> It also helpfully reiterates that "[t]he main way for States to be human rights compliant is to rapidly phase out fossil fuels through viable, scientifically proven technologies and approaches."<sup>2</sup>

In 2022 and 2023, three requests for advisory opinions were submitted before international tribunals: the [International Tribunal on the Law of the Sea \(ITLOS\)](#) (12 December 2022), the [Inter-American Court on Human Rights \(IACtHR\)](#) (January 9, 2023), and the [International Court of Justice \(ICJ\)](#) (March 29, 2023), aiming to clarify States' obligations in the context of climate change. While each advisory opinion has a different scope and focus, they will all contribute to informing the understanding of States' obligations

<sup>1</sup> A/HRC/54/47, para 66

<sup>2</sup> *Ibid.*, para 71

related to climate change, looking at important dimensions such as emission reduction obligations, remedy for climate harm, obligations towards future generations, corporate accountability, and so on. The IACtHR's advisory opinion will be focused on human rights obligations. The request to the IACtHR was made by Colombia and Chile and outlines detailed questions for the Court to answer, which touch upon States' obligations with regard to mitigation and adaptation, loss and damage, regulation of private actors, procedural rights, children rights, effective remedy, intersectionality, environmental human rights defenders, human mobility, and international cooperation. A broader set of legal sources are engaged in the ICJ climate advisory proceedings, including human rights law. The request to the ICJ specifically mentions the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), and recalls a few resolutions by the Human Rights Council. It then requests the Court to look at States' obligations with regard to the protection of climate and the environment from greenhouse gas emissions, including vis-à-vis future generations, as well as to the consequences should harm occur due to States' acts or omissions, including with respect to "[p]eoples and individuals of the present and future generations affected by the adverse effects of climate change." The [ITLOS](#) held public hearings in September 2023, while those before the [IACtHR](#) took place in April and May 2024, and those before the [ICJ](#) are expected in late 2024 or early 2025. The ITLOS issued its [Advisory Opinion](#) on 21 May 2024. An analysis of it will be included in the next edition of the Synthesis Note, which will focus on 2024.

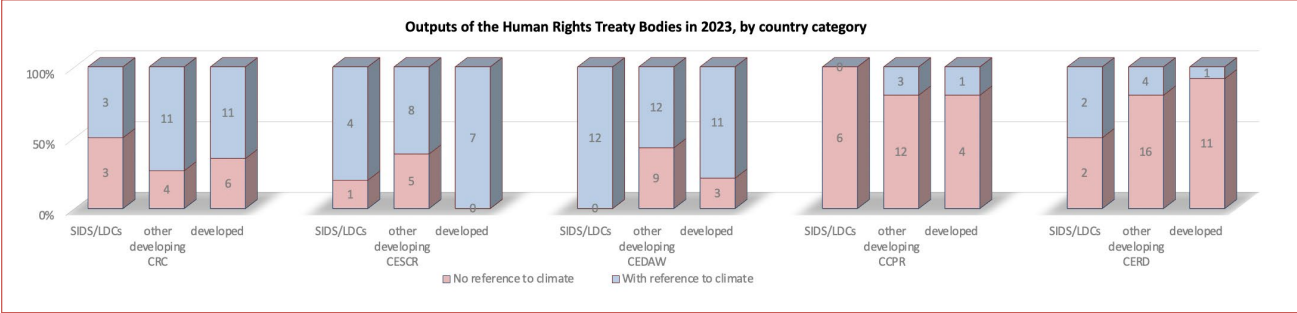
In 2023, various UN Special Rapporteurs continued to look at specific States' obligations in the context of climate change through individual communications, thematic reports, and joint amici briefs in international climate proceedings. For instance, the UN Special Rapporteur on human rights and the environment issued a report on investor-State dispute settlement's implication for climate and environment action from a human rights perspective, ([UN Doc. A/78/168](#)), the Special Rapporteur on human rights and toxics prepared one on the toxic impacts of some proposed climate change solutions ([UN Doc. A/HRC/54/25](#)). The UN Special Rapporteur on human rights and climate change devoted a report to climate change legislation and litigation, the principle of intergenerational justice ([UN Doc. A/78/255](#)), and the human rights of persons displaced across international borders due to climate change ([UN Doc. A/HRC/53/34](#)). In his reports, he took note of relevant HRTBs' decisions on individual communications, namely *Billy v. Australia* (2022), *Sacchi et al. v. Argentina et al.* (2019), and *Teitiota v. New Zealand* cases (2009). The increased work on climate change by various UN human rights mechanisms highlights the potential offered by cross-pollination among human rights institutions and procedures to further articulate States' obligations in the context of climate change. As the climate crisis unfolds, UN and regional human rights mechanisms and procedures should continue to build on their work on climate change and monitor and respond to the worsening climate-driven human rights crisis in 2024 and beyond.

# List of HRTBs and the Rights and Principles Most Relevant to Climate Change

Name of the treaty body	Human rights treaty monitored	Relevant rights and principles
Committee on the Elimination of Discrimination Against Women (CEDAW)	Convention on the Elimination of All Forms of Discrimination Against Women	<ul style="list-style-type: none"> <li>• Obligation to prohibit and eliminate discrimination against women (Article 2) and to ensure the full development and advancement of women (Article 3)</li> <li>• Right to participation (Article 7)</li> <li>• Rights of rural women (Article 14)</li> </ul>
Committee on Economic, Social and Cultural Rights (CESCR)	International Covenant on Economic, Social and Cultural Rights	<ul style="list-style-type: none"> <li>• Obligation to take steps towards the full realization of ESC rights (Article 2)</li> <li>• Peoples' right of self-determination and to own means of subsistence (Article 1)</li> <li>• Rights to an adequate standard of living, including food, water, and housing (Article 11); to health (Article 12); and to science and culture (Article 15)</li> </ul>
Committee on the Rights of the Child (CRC)	Convention on the Rights of the Child	<ul style="list-style-type: none"> <li>• Obligation to respect and ensure the rights of children and to eliminate discrimination against children (Article 2) and the principle of the best interests of the child (Article 3)</li> <li>• Rights to life (Article 6); freedom of expression (Article 13); health (Article 24); an adequate standard of living, including food, water, sanitation, and housing (Article 27); and education (Article 28)</li> </ul>
Human Rights Committee (CCPR)	International Covenant on Civil and Political Rights	<ul style="list-style-type: none"> <li>• Peoples' right of self-determination (Article 1)</li> <li>• Rights to non-discrimination (Article 2), Article to life (Article 6), to home, private life, and family life (17), to expression (Article 19), rights of children (Article 24) to take part in public affairs (Article 25), and to culture (Article 27)</li> </ul>
Committee on the Elimination of Racial Discrimination (CERD)	International Convention on the Elimination of All Forms of Racial Discrimination	<ul style="list-style-type: none"> <li>• Prohibition of racial discrimination (Article 2) and obligation to eliminate racial discrimination in relation to all human rights (Article 5)</li> <li>• Right to remedy (Article 6)</li> </ul>
Committee on the Rights of Persons with Disabilities (CRPD)	Convention on the Rights of Persons with Disabilities	<ul style="list-style-type: none"> <li>• Prohibition of discrimination against persons with disabilities (Article 4), obligation to consult</li> <li>• Rights to life (Article 10), education (Article 24), health (Article 25), and adequate standard of living (Article 29)</li> <li>• Obligation to protect persons with disabilities in situations of risk and natural disasters (Article 11)</li> </ul>

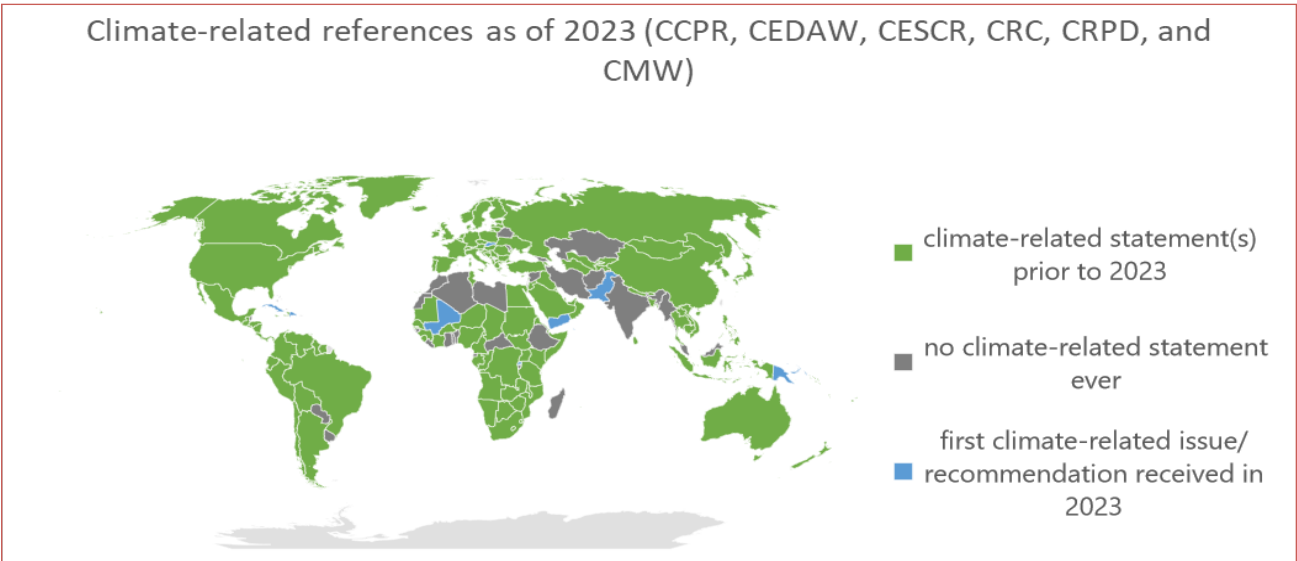


The CEDAW, CESCR, CRC, and the CRPD now refer to climate change in the majority of the issues and recommendations to State parties, thus giving a balanced importance to climate change both in the context of developed and developing States. The other HRTBs are looking at this topic to a lesser extent. The CCPR, which first addressed climate change in 2019, continued to look at climate change in very few instances. The CERD, which started looking at climate change in 2019, slightly increased the number of climate-related outputs in 2023, looking at the impacts of climate change and climate policies on vulnerable populations, including most affected ethnic groups, ethno-religious minorities, and Indigenous peoples. A detailed analysis of climate-related work by the CCPR, the CESCR, the CRC, the CEDAW and the CERD can be found further down in this note.



Most committees are now addressing matters related to climate change with all categories of States under review — Small Islands Developing States (SIDS), Least Developed Countries (LDCs), other developing States, and developed States — thus addressing both States contributing more to climate and those who have contributed the least to it. Committees provided some clear recommendations to both developed and developing countries with regard to their obligations to mitigate harms by reducing emissions and tackling fossil fuel extraction. This also applies to adaptation, which is quite consistently looked at for both developed and developing countries under review.

The total number of countries that have received at least one climate-related recommendation since 2008 has increased steadily, as the map below shows. As of December 2023, 33 States parties have never received a climate-related output. Of these, only one is a developed country.



## State Reporting Procedure: Climate-Related Themes

HRTBs have a unique role to play in continuing to review the adequacy of the climate policies of individual States and providing authoritative statements regarding the scope of the human rights obligations of States in the context of climate urgency. Compared to other human rights mechanisms, the State reporting procedure allows treaty bodies to look at the specific circumstances, needs, and challenges of the countries reviewed and to provide specific and ad hoc guidance. HRTBs should leverage this process to focus on the most pressing climate-related issues. This section identifies a few of these issues that are particularly relevant when discussing human rights obligations in the context of climate change yet are still little explored by human rights mechanisms. These include fossil fuels, loss and damage, the right to a clean, healthy, and sustainable environment, carbon markets and offsets, the rights of future generations, international financial cooperation and climate finance, and equitable and just energy transition.

### Fossil Fuels Extraction, Export and Consumption

Fossil fuels are the main driver of climate change. The Intergovernmental Panel on Climate Change (IPCC) has repeatedly stated that staying below 1.5°C of warming requires immediate action to rapidly phase out fossil fuels. This has been echoed by the International Energy Agency, which has shown that fossil fuel expansion is incompatible with holding global warming to 1.5°C, and by the UN Secretary-General, who has called on governments to “end our global addiction to fossil fuels.” As highlighted by the [joint statement](#) that was released in November 2023 by six UN Special Rapporteurs, “fossil fuels are at the heart of the planetary ecological crisis and their tremendous negative impacts on human rights are felt throughout their life cycle, from exploration and extraction to combustion and contamination.” A wide range of human rights are affected by the fossil fuel industry. These include economic, social, and cultural rights due to the pollution and climate disruption that fossil fuels cause, not only when extracted but also when they are exported and turned into energy or other products like plastics or agrochemicals. Civil and political rights are also impacted, as cases of criminalization and repression of and reprisals against those protesting against fossil fuels extraction projects demonstrate. The States' obligations in the context of fossil fuels have an important extraterritorial component. Multinational corporations that are registered in a State party might conduct harmful activities in third countries; financial actors might invest in fossil fuels-related operations outside of their country of registration; and overall, the climate change impacts of fossil fuels extraction, export, and consumption, irrespective of where they happen, are felt globally. As the HRC Advisory Committee clearly stated, “[t]he main way for States to be human rights compliant is to rapidly phase out fossil fuels” ([UN Doc. A/HRC/54/47](#)).

HRTBs have been paying increasing attention to fossil fuel production and its impacts on the enjoyment of human rights, looking at the way they affect climate change and environmental degradation. In 2023, 26 outputs from the State reporting procedure mentioned fossil fuels, almost double compared to 2022. These were issued by the CESCR (eight), the CEDAW (eight), the CRC (six), the CERD (three), and the CCPR (one). Fossil fuels were mostly mentioned in outputs concerning developed countries (thirteen) and developing countries (ten) and only in a few concluding observations concerning LDCs or SIDS (three). This trend is to be welcomed, as developed countries are historically the main producers of fossil fuels and the greatest contributors to climate change, and thus must be leading efforts to phase out the production and consumption of fossil fuels. HRTBs looked at various dimensions related to fossil fuels. A few statements addressed the local impacts of fossil fuels extraction on the local population, as was the case



of the CCPR’s LOI to Namibia, the CRC’s COB to Sao Tomé and Príncipe, or the CERD’s COB to Senegal. Namibia’s 2023 LOI by the CCPR provides a particularly good example as it delves into the ongoing issues related to oil and gas extraction. The Committee requests information on measures to guarantee the free, prior, and informed consent of Indigenous communities affected by projects, specifically mentioning oil and gas extraction in the Kavango East and Kavango West. The CRC’s LOI to Norway is also particularly relevant as it addresses both local and extraterritorial impacts of fossil fuels and the regulation of private actors. The Committee asked the State party to “describe the measures taken to ensure the legal obligations of business enterprises and their subsidiaries operating in or managed from the State party’s territory, including companies in the fossil fuel industry, regarding the rights of children in relation to international and national human rights, environmental, health, labour and other standards.” The Committee specifically requested the State party to explain measures to reduce emissions, “and consider the impact of climate change on the rights of the child in its energy policy, including in relation to plans to expand oil and gas extraction,” as well as to “[i]nvest in alternative energy and establish safeguards to protect children, both in the State party and abroad, from the negative impacts of fossil fuels.” A few statements looked at the impacts that fossil fuels have on climate change, like the CRC’s COB to Azerbaijan or the CEDAW’s LOIs to Australia and San Marino. The latter two interestingly referred to both consumption and export of coal. Others importantly considered the issue of subsidies and financial support to the fossil fuel industry, like the CRC’s COB to Azerbaijan, which recommended the State party to “[c]onsider the impact of climate change on the rights of the child in its energy policy, including in relation to ... fossil fuel subsidies.” or the CRC’s LOI to Qatar, which asked the State party to “ensure that private and publicly owned financial institutions take into consideration the implications of their investments for climate change and the resulting harmful impact on children.” The CRC’s 2023 COB to Sweden recommends that the State party “[e]stablish a clear regulatory framework for business enterprises and their subsidiaries operating in or managed from the State party’s territory to identify, prevent, mitigate and account for activities that negatively affect human rights or endanger children’s rights, including risks posed by fossil fuel production,” thus importantly addressing the question of extraterritorial conduct of corporate actors.

The CEDAW’s 2023 COB to Norway also provides a strong example of how the State review procedure can be used to provide guidance to State parties regarding fossil fuels extraction, as it identifies clear steps that Norway should take to be compliant with its human rights obligations, and addresses important questions such as regulation of private actors and extraterritorial obligations. The COB first notes that “the State party has further expanded its oil and gas industry, including by granting forty-seven new oil and gas exploration permits in January 2023, including in the Arctic, where the temperatures rise particularly fast, and despite the EU’s aim to ban extraction in the Arctic”; and that “the greenhouse gas emissions of the State party’s extraction industry undermine its obligations to ensure the substantive equality of women with men, as climate change disproportionately affects women, especially in situations of poverty.” The Committee then recommends that Norway review its climate change and energy policies, “in particular its policy on the extraction and export of oil and gas, as well as the activities of related State-owned companies and private companies, taking into account the disproportionate negative impact on women and girls both within and outside its territory, with a view to radically reducing greenhouse emissions in line with the Paris Agreement.” Related to this, it also recommends that the State party establish a monitoring mechanism to ensure that businesses are held accountable for the impact of their activities on women’s human rights and environmental degradation.

HRTBs have an important role in clarifying States' human rights obligations in the context of fossil fuel production, export and consumption. They are in a unique position, compared to other human rights mechanisms, to look at the specific context of each of the State parties they review and identify the challenges and opportunities when it comes to human rights protection in the context of the oil, gas and coal industry. When addressing the issue of fossil fuels, HRTBs should further examine:

- multiple dimensions of the human rights impact of fossil fuels production, export, and consumption in order to provide effective scrutiny and guidance to State parties on this matter;
- State parties' human rights obligations regarding the phase-out of fossil fuel extraction, export, and consumption as a proven measure to address climate change;
- State parties' human rights obligations regarding the local impacts of fossil fuels extraction, as well as extraterritorial impacts due to fossil fuels' contribution to global climate change;
- State parties' human rights obligations regarding the regulation of fossil fuel multinational corporations registered in a State party but operating in third countries, with a specific focus on extraterritorial obligations;
- State parties' human rights obligations regarding the regulation of financial actors registered in a State party but financing fossil fuels-related activities in third countries; and
- State parties' human rights obligations regarding civil and political rights in the context of ongoing or planned extraction projects.

## Right to a Clean, Healthy, and Sustainable Environment

The right to a clean, healthy, and sustainable environment was recognized by the UN Human Rights Council in 2021 ([HRC resolution 48/13](#)) and by the UN General Assembly in July 2022 ([UNGA resolution 76/300](#)), building upon a wealth of national laws, constitutions, and jurisprudence that already established this right.

HRTBs have engaged with this right, although to very varying degrees. eight COBs (two by the CESCR, three by the CRC, and three by the CERD) and two LOIs (CESCR and CRC) mentioned it in total. The CRC was the first to refer to the right in its 2018 COB to the Marshall Islands, urging the State party to take measures regarding “the immediate and continuing effects of the nuclear tests of the United States of America on children’s health, the right to live in a healthy environment and indefinite displacement.” In 2019, in its COB to Senegal, the CESCR commended the State’s initiative to include the “right to a healthy environment” in its Constitution. All the other outputs were issued in 2022 and 2023 and referred to the “right to a clean, healthy and sustainable environment,” as per the expression used by the UN General Assembly Resolution 76/300 (CESCR’s 2023 COB to Portugal, CERD’s 2023 COB to the Russian Federation, CRC’s 2023 LOIPR to Spain, CRC’s 2023 COB to the UK). A few other outputs mentioned “a healthy environment” without tying it to a right. For instance, in its 2022 COB to Kuwait, the CRC recommended that the State party “adopt and enforce regulations on water usage and waste disposal, with a view to ... creating a healthy environment where children can play outside.” While not linked to the right as such, it is worth mentioning that seven outputs of the CCPR, the CESCR, and the CEDAW explicitly addressed environmental rights defenders and environmental-related protests (CEDAW’s 2021 COB to the Russian Federation, CEDAW’s 2023 COB to the Bolivarian Republic of Venezuela, CEDAW’s 2023 COB to Costa Rica, CEDAW’s 2023 COB to the Philippines, 2022 LOI to Guatemala, 2022 LOIPR to Thailand, and 2023 LOIPR to Mexico, CESCR’s 2023 LOI to Kenya). While they did not mention the right to a healthy environment explicitly, they identify environmental rights defenders as a specific category worth protection.

The CRC has done pivotal work to unpack the right and explain how it relates to other rights protected under the Convention in its [General Comment No. 26 \(2023\) on children’s rights and the environment, with a special focus on climate change](#). It is worth noting that the Convention on the Rights of the Child already establishes that State Parties have an obligation to “combat disease and malnutrition ... through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution” and that “the education of the child shall be directed to: ... [t]he development of respect for the natural environment.” In its GC No. 26, the CRC recognized that “[c]hildren have the right to a clean, healthy and sustainable environment,” and that “[t]his right is implicit in the Convention,” outlining the various rights protected under the Convention to which it is directly linked to. It further explained that the substantive elements of this right include clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food, and non-toxic environments. The GC also provides guidance to States on how to apply the right and specifies that when determining the best interests of the child, State parties should aim “to ensure the full and effective enjoyment of all rights, including the right to a clean, healthy and sustainable environment.”

The CEDAW has also advanced the right through its General Recommendations. In [General Recommendation No. 39 \(2022\) on the rights of Indigenous women and girls](#), the Committee explicitly recognized the right to a clean, healthy, and sustainable environment, stating that it “encompasses a safe and stable climate.” The General Recommendation also contains various recommendations related to the right

to a clean, healthy, and sustainable environment to ensure that laws and policies “reflect the specific impacts of climate change and other forms of environmental degradation and harm, including the triple planetary crisis”; that effective remedies and accountability mechanisms are put in place “to hold those responsible for environmental harm accountable, and ensure access to justice for Indigenous women and girls in environmental matters”; and that free, prior, and informed consent is obtained, including for “any proposal to designate their lands as a protected area for conservation or climate change mitigation purposes or carbon sequestration and trading or to implement a green energy project on their lands, and any other matter having a significant impact on their human rights.”

HRTBs have the potential to further clarify the content of the right to a clean, healthy, and sustainable environment. They should:

- continue, or start to explicitly recognize it as a right in line with the UN General Assembly Resolution;
- unpack how the right to a clean, healthy, and sustainable environment is linked to other rights protected by the Conventions/Covenants;
- identify concrete measures that State parties should put in place in order to protect, promote, and fulfill this right; and
- make a strong case for effective protection of those who work for the respect of this right, i.e., environmental human rights defenders.

## Loss and Damage

Human rights obligations are an important compass to determine States' duties to provide effective remedy for those who are harmed by climate change-related impacts and guide loss and damage responses to ensure that they are effective and inclusive. As the scale and gravity of climate-related impacts increase exponentially across the world, the international community is giving more attention to the question of how to address this loss and damage, including under the UN climate agreements. As Parties to the UNFCCC are deciding on the design of the "Fund for responding to Loss and Damage" established at the 27th Conference of the Parties (COP27), human rights-based guidance on how to address loss and damage at the local, national, and international levels is becoming increasingly important. In their 2019 Joint Statement on climate change and human rights, HRTBs explicitly mentioned loss and damage, highlighting that "States must co-operate in good faith in the establishment of global responses addressing climate-related loss and damage suffered by the most vulnerable countries, paying particular attention to safeguarding the rights of those who are at particular risk of climate harm and addressing the devastating impact, including on women, children, persons with disabilities and indigenous peoples." Loss and damage was already mentioned in the CEDAW's [General Recommendation No. 39 \(2022\) on the rights of Indigenous women and girls](#) and, more extensively, in the CRC's [General Comment No. 26 \(2023\) on children's rights and the environment with a special focus on climate change](#). In the latter, the Committee highlighted that "from a human rights perspective, loss and damage are closely related to the right to remedy and the principle of reparations, including restitution, compensation and rehabilitation." Building on these developments, 2023 marked the first year in which an HRTB has explicitly mentioned issues relating to loss and damage in their State reporting procedure. CEDAW, in the COBs to Timor-Leste, the Philippines, Norway, Germany, and Mauritania, recommended supporting and participating in the creation and operation of new funding arrangements for responding to loss and damage, as decided during the COP27, held in 2022. The CEDAW also recalled the establishment of the Loss and Damage Fund in the LOI to Papua New Guinea. While other Committees have not made explicit reference to loss and damage in their own COBs, LOIs, or LOIPRs, many questions or recommendations have still addressed dimensions that are relevant to loss and damage in a total of sixty-four outputs (twenty-eight LOIs and thirty-six COBs). The CEDAW itself, in a few instances, continued to look at loss and damage without labeling it as such, as have several other HRTBs have done before. For instance, in its COB to Guatemala, the Committee noted that "climate change has a differentiated impact on indigenous women, as it results in the loss of their ecosystem, community habitat, livelihoods and the disruption of food and water supply and ancestral knowledge." In some instances, HRTBs have referred to the present impacts of climate change on the human rights of populations in vulnerable situations, post-disaster management, right to remedy, and long-term and protection measures aiming to tackle climate impacts. A few outputs looked at post-disaster management, noting the lack of gender-responsive post-disaster policies (e.g., CESCR's COB to Slovenia, CEDAW's COBs to China and the Philippines). A few outputs by the CRC addressed the issue of the right to remedy, asking State parties to provide information on measures taken to ensure children's access to justice for environmental-related human rights harms (e.g., LOIs to Argentina, Bulgaria, and Spain). In its LOI to Argentina, the Committee made explicit reference to "children's right to an effective remedy, including in the context of the State party's extraterritorial obligations." A few outputs referred to international cooperation, like the CRC's COB to the UK, which recommended that the State party "[t]ake legislative and other measures to uphold its extraterritorial obligations concerning impacts on the environment, including in the context of international cooperation."

The CEDAW, CESCR, CERD, and CMW have looked at the issues of migration and forced displacement, exacerbated by the climate crisis and consequent loss and damage. In its COB to Spain, the CEDAW expressed its concern “about climate refugees in the State party, the majority of whom are women and children, and about the disproportionate impact of the climate crisis on women and girls, which requires specific and urgent measures,” and in its COB to Nicaragua, the Committee recommended addressing “women’s internal displacement and migration in the context of climate change and provide adequate support to women and girls during displacement and migration.” The CEDAW also asked Tuvalu, in its LOIPR, to “inform the Committee about the steps taken to develop disaster management and mitigation plans in response to potential displacement and/or statelessness arising from environmental and climate change.” The CESCR, in its COB to Yemen, shared its concerns about the impact of “climate change as a driver of food insecurity and displacements in the State party, with the destruction of property and loss of livelihoods as the result of floods and droughts, coupled with an unprecedented rise in temperatures which affects all agricultural regions of Yemen.” The CERD also examined the situation of internally displaced Indigenous communities in its COB to the Philippines, highlighting that “individuals and communities, in particular those belonging to ethno-religious minority groups in Mindanao, continue to face a significant risk of displacement resulting from conflict, natural disasters and climate change-related disasters and forced displacement in the context of large-scale extractive and development projects.” In the CMW’s LOI to the Seychelles, the Committee asked for information on “the measures taken ... to raise awareness about racism, racial discrimination, xenophobia and related intolerance in relation to the impact of climate change in the context of migration, including by identifying specific, time-bound and measurable goals and targets to serve as an early-warning mechanism to highlight the interlinkages between violations of the human rights of migrants and discrimination, inequalities and climate change.”

In the context of loss and damage, HRTBs should provide additional guidance on:

- developed States’ obligations to provide adequate resources for the Loss and Damage Fund established under UNFCCC and the Paris Agreement;
- States’ human rights obligations, including extraterritorial obligations, to provide remedy for climate-related human rights harms, and what such obligations entail in terms of concrete pathways for redress and reparations for the wide range of human rights harms concerned, including in the context of non-economic loss and damage; and
- any current and future mechanisms, funds, and frameworks for addressing loss and damage and/or reparations programs at the national and international level, based on human rights obligations and principles, including ensuring access to information, meaningful participation, and access to justice, and advancing substantive equality.

### Carbon Markets and Offsets

Carbon markets are trading systems in which carbon credits — generated primarily from greenhouse gas emissions being reduced or sequestered — are bought and sold. Countries, companies, or individuals engage in a carbon market by buying a carbon credit sold by another entity to compensate for their own greenhouse gas emissions. Several human rights and environmental risks and violations are associated with carbon markets. Often, credit-generating activities result in human rights violations of the communities where the activities are taking place as they result in land grabs, lack of free, prior, and informed consent of Indigenous Peoples (FPIC), and significant impacts on the right to food, water, and livelihood, among other fundamental human rights. To date, independent accountability and grievance redress mechanisms to address and provide remedy when violations occur are often lacking or inadequate. The carbon credits are used to offset ongoing greenhouse gas emissions elsewhere and those emitting activities may also lead to negative human rights impacts on fenceline communities. At the same time, credit-generating activities, by allowing for one entity to offset their ongoing emissions rather than reduce them, merely rearrange where the emissions take place rather than reducing them overall, thus failing to effectively tackle climate change. By pursuing carbon market mechanisms, States violate their obligations to promote, respect, and fulfill human rights, as they fail to effectively tackle climate change — which results in impacts on a wide range of human rights, as has been confirmed by many HRTBs already — and they contribute to the violations of fundamental rights in the places where credit-generating activities occur. These obligations apply both to the countries that host these activities (and thus sell credits) and those that buy the credits.

HRTBs have almost never looked at the issue of carbon markets, even though the associated human rights violations would fall in the scope of their work. Only the CEDAW appears to have started to address it, though to a limited extent. In its [General Recommendation No. 39 \(2022\) on the rights of Indigenous women and girls](#), the CEDAW recommended that effective remedies and accountability mechanisms

should be put in place “to hold those responsible for environmental harm accountable, and ensure access to justice for Indigenous women and girls in environmental matters”; and that free, prior, and informed consent, including for “including any proposal to designate their lands as a protected area for conservation or climate change mitigation purposes or carbon sequestration and trading or to implement a green energy project on their lands, and any other matter having a significant impact on their human rights” must be ensured. In its 2023 COB to Costa Rica, recalling its [General Recommendation No. 37 \(2018\) on the gender-related dimensions of disaster risk reduction in the context of climate change](#), the Committee recommended that the State party “[r]eview mechanisms to ensure that women conservators can also access environmental credits through the payments for environmental services programme system.” Yet, even if markets are designed well with the full participation of communities and in a way that allows communities to receive benefits, there is still a fundamental problem in that the premise of the market is that activity somewhere is offsetting emissions at a time when fossil fuels should be phased out.

HRTBs have the potential to look closely at the issue of carbon markets, and provide guidance on States’ relevant human rights obligations. In particular, HRTBs should:

- for States hosting credit — generating activities, look at whether protected human rights - both substantial and procedural rights — are violated, and whether effective complaint and accountability mechanisms are in place and that communities do not face retaliation for using them;
- for States buying credits, assess their compliance with their human rights obligations to effectively reduce greenhouse gas emissions directly rather than relying on offsets, and to ensure that no human rights violation occurs in connection to the credit-generating activities; and
- for private actors buying credits, assess their compliance with obligations to effectively reduce greenhouse gas emissions and to ensure that no human rights violation occurs in connection to the credit-generating activities.



### Future Generations

Climate change, along with the two other environmental planetary crises (biodiversity loss and pollution), jeopardizes the rights of future generations to enjoy all internationally recognized human rights. This undermines some of the very core principles of the human rights systems — universality and non-discrimination. Even though human rights treaties do not explicitly mention future generations, denying that human beings to come bear rights is an artificial construct that is not made explicit by any human rights instrument. HRTBs have already started to engage, although sporadically, with States' obligations vis-à-vis future generations in their State reporting procedure, General Comment, and individual communications.

Since 2008, only twelve outputs by HRTBs have mentioned future generations or intergenerational equity. Most of them were issued after 2019 and focused on the need to protect future generations from environmental threats. In its 2018 and 2019 COBs to Argentina and Ecuador, for instance, the CESCR expressed concerns about the State parties' plans for extractive industries, including fossil fuels, as this would counter the climate change commitments under the Paris Agreement and “would have a negative impact on global warming and on the enjoyment of economic and social rights by the world's population and future generations.” The 2018 COB to the Marshall Islands by the CEDAW is also relevant, despite not relating to climate change specifically. The Committee expressed concern regarding the “intergenerational health impact” suffered disproportionately by women and girls as a consequence of nuclear testing in the Marshall Islands. The CEDAW also requested Australia to take steps to “address the intergenerational trauma” suffered by Aboriginal and Torres Strait Islanders in “appropriate and effective ways.” The CRC also mentioned future generations in two outputs. In its 2021 COB to Eswatini (formerly named Swaziland), the Committee recommended that the State party “[p]romote the sustainable management of natural resources such as land and water, considering the consequences for the present and future generations.” In its 2022 LOI to Finland, it requested the State party to “evaluate the possible effects of climate change action and mitigation measures on children and their rights, including Sami children, and to integrate the protection of children and future generations into the laws and climate strategies implemented.”

A few General Comments have looked at future generations. In the [CCPR's General Comment No. 36 \(2019\) on the right to life](#), the Committee stated that “[e]nvironmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.” In the [CESCR's General Comment No. 12 \(1999\) on the right to adequate food](#), the Committee mentioned that for food to be deemed adequate, it should be available for present and future generations. The Committee made a similar consideration in its [General Comment No. 15 \(2003\) on the right to water](#), stipulating that “States parties should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations.” While not strictly related to sustainable development, the CESCR also stated

that future generations shall be taken into account when setting up social security schemes ([General Comment No. 19 \(2008\) on the right to social security](#)) and when protecting cultural heritage ([General Comment No. 21 \(2009\) on the right of everyone to take part in cultural life](#)). In its [General Comment No. 25 \(2020\) on science and economic, social and cultural rights](#), the Committee established that when a scientific action or policy might lead to harm that is “inequitable to present or future generations,” then this shall be considered unacceptable, and thus actions must be taken to avoid or diminish that harm. The CEDAW, in its [General Recommendation No. 37 \(2018\) on gender-related dimensions of disaster risk reduction in the context of climate change](#), stated that climate change affects mostly “those countries and populations that have contributed the least to climate change, including people living in poverty, young people, and future generations, are the most vulnerable to its impacts” and should thus be prioritized in climate action in light of climate equity.

More recently, in its [General Comment No. 26 \(2023\) on children’s rights and the environment with a special focus on climate change](#), the CRC explicitly recognized the principle of intergenerational equity, stating that “the children constantly arriving are also entitled to the realization of their human rights to the maximum extent.” It also added that “[b]eyond their immediate obligations under the Convention with regard to the environment, States bear the responsibility for foreseeable environment-related threats arising as a result of their acts or omissions now, the full implications of which may not manifest for years or even decades.”

Interestingly, a few decisions on communications have considered the rights of future generations in relation to the environment ... In its decision on [Sacchi et al. v. Argentina et al.](#) (2021), the CRC stated that the State parties, “[b]y supporting climate policies that delay decarbonization, ... [are] shifting the enormous burden and costs of climate change onto children and future generations,” thus breaching their duty to ensure the enjoyment of children’s rights for posterity and failing to act in accordance with the principle of intergenerational equity. The CCPR, in its decision on [Billy v. Australia](#) (2019), found that Australia had failed to take “adequate adaptation measures to protect [the Torres Strait Islanders’] collective ability to maintain their traditional way of life, to transmit to their children and future generations.” In [Lars-Anders Ågren et al. v. Sweden](#) (2020), the CERD recognized that Indigenous Peoples’ “relations to the land are not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations,” and that the realization of their land rights may be a prerequisite for the exercise of the right to life, as such, and to “prevent their extinction as a people.”

The [Maastricht Principles on the human rights of future generations](#) represent a useful source for investigating States' human rights obligations vis-à-vis future generations. Adopted in February 2023 and endorsed by more than 50 former and current UN human rights experts, the Principles seek to both consolidate and develop existing human rights standards to enhance the protection and fulfillment of the human rights of future generations and can thus be a useful tool for HRTBs to further look into this dimension. In one of his latest reports ([UN Doc A/78/255](#)), the UN Special Rapporteur on human rights and climate change even recommended that the General Assembly “give full and proper consideration” to the Principles and prepare a resolution reflecting their key elements.

HRTBs have the opportunity to further incorporate the rights of future generations in their work. They should:

- in the context of the State reporting procedure, look into how State parties are taking into account the interests and the human rights of future generations when setting up environmental and energy policies, in particular regarding fossil fuels;
- in their General Comments/Recommendations or statements, unpack and explain how the rights of future generations encompass the Covenants and Conventions; and
- build upon the Maastricht Principles on the human rights of future generations.

### International Financial Cooperation and Climate Finance

In 2023, HRTBs continued to address issues related to climate finance and cooperation, although with less frequency than in the past years. In 2023, seven outputs addressed these issues expressly. Nevertheless, most of the outputs from the State reporting procedure were addressed to developed States. Given how essential the developed State's obligation to provide climate finance is for effectively mitigating and adapting to climate change, particularly for climate-vulnerable developing countries, this trend should be regarded with concern.

The CRC addressed climate finance and/or financial cooperation through its work, both through the State reporting procedure and the latest [General Comment No. 26 \(2023\) on children's rights and the environment with a special focus on climate change](#). With regard the State reporting procedure, in its COB to Sao Tome and Principe, the Committee urged the State to “invest in climate change adaptation, resiliency-building and capacity-building across the country to address the negative impact of climate change, seeking bilateral, multilateral, regional and international cooperation.” In its GC 26, the Committee devoted great attention to the issue of climate finance and called on providing and recipient States to “ensure that climate finance mechanisms are anchored in a child rights-based approach.” Furthermore, the CRC called attention to the principle of common but differentiated responsibilities and respective

capabilities and stressed that “[d]eveloped States should cooperate with developing States in providing climate finance for climate action that upholds children’s rights, in line with the international climate-related commitments that States have made.” In that sense, the Committee called on developed States to “urgently and collectively address the current climate finance gap.”

The CEDAW is the Committee that most evaluated climate finance in its States reporting procedure. Out of six outputs from the State reporting procedure, five were authored by the CEDAW. In the COB to Germany, the Committee touched upon the issue of climate finance by “commend[ing] the State party for its efforts to address climate change, including ... the contribution to climate financing.” In the COB to Norway, it required the State to “actively support and participate in the creation and operation of new funding arrangements for responding to loss and damage.” Additionally, in the COB to Timor-Leste, it urged the State to guarantee the “active participation [of women] in the creation and operation of new funding arrangements for responding to loss and damage” within the framework of the UNFCCC. The CESCR also considered other measures relevant to gathering the necessary resources to fulfill States’ human rights obligations. In that sense, in its COB to Indonesia, the Committee called on the State to “[a]dopt a more efficient, progressive and socially just fiscal policy ... with a view to expanding the tax base and fiscal space for the progressive realization of economic, social and cultural rights.” Furthermore, in the COB to Ireland, the CESCR noted the transboundary effects of tax policy by requesting the State to “[s]trengthen measures to combat illicit flows, cross-border tax evasion, and tax fraud, in particular by wealthy individuals and business enterprises ... in order ... to enable other countries to secure the resources necessary for the realization of economic, social and cultural rights.” While these outputs do not mention climate change specifically, they are particularly relevant as gathering of funds and resource mobilization are needed to tackle the climate crisis effectively.

HRTBs have the opportunity to clarify the obligations of states in relation to international cooperation and climate finance further. In their work, HRTBs should:

- in the context of the State reporting procedure, call on developed States to increase their financial assistance to fight climate change;
- call on States to further cooperate at the universal level to establish a fair international taxation system and establish progressive and green taxes to garner the financial resources to fight the climate crisis;
- call upon States, as members of International Financial Institutions (IFIs), to use their influence and decision-making power in those organizations to promote climate sustainability - which includes climate transition financing - when assessing new programmes and loans and potential renegotiations of existing debts to be repaid; and
- call upon States, members of IFIs, to leverage their influence and decision-making power to ensure that loan conditionalities for repayment are not tied to fossil fuel extractivism derived from the export of commodities.

### Equitable and Just Transition

Considering the pressing nature of the climate emergency, States have the imperative to phase out fossil fuels in a way grounded in human rights and equity, taking into account especially those groups and categories of peoples historically marginalized. In 2023, HRTBs continued addressing the need to ensure a just transition away from fossil fuels.

The CRC was the only HRTB that explicitly mentioned the concept of a just transition. In its [General Comment No. 26 \(2023\) on children's rights and the environment with a special focus on climate change](#), the Committee indicated that to realize the right to a clean, healthy, and sustainable environment, States should “phase out from fossil fuels and ensure a fair and just transition.”

Other HRTBs implicitly stressed the importance of moving forward with the energy transition by calling on States to transform their energy systems. Specifically, the CEDAW noted the importance of establishing gender-responsive policy frameworks for adaptation, disaster risk reduction, and mitigation of climate change (e.g., COBs to Slovenia and Spain). Despite not explicitly referring to the concept of just and fair transition, it did call for women's rights to be incorporated in measures to address the climate emergency. Considering the importance of climate policy being aligned with human rights principles and serving as a tool to tackle disparities, these recommendations from the Committees are particularly significant.

As HRTBs increasingly look at States' obligations to phase out fossil fuels, they must also look at the obligations that underpin the transition towards renewable energy, in a way that is just, rights-based and equitable. In doing so HRTBs should:

- make specific reference to the concept of just transition, and further develop what this entails for the countries under consideration;
- make clear that the energy transition towards sustainable societies must be carried out while fully respecting human rights. In that sense, highlight the importance of mitigation and adaptation measures being guided by human rights principles and compliant with obligations;
- identify specific groups that would need to be given specific attention to in the just transition process; and
- recognize the increased challenges faced by women and girls due to the overburden of care responsibilities derived from the escalation of the climate emergency.

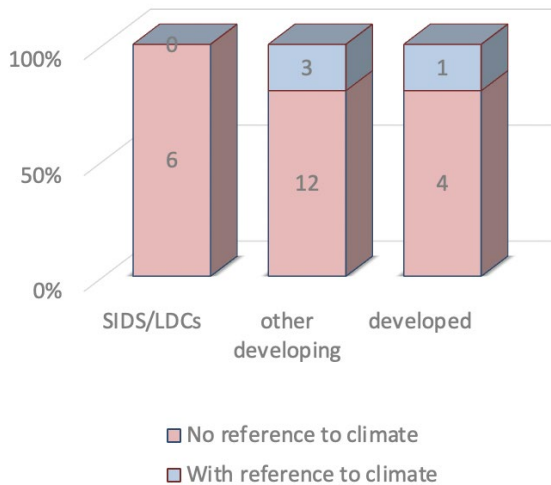
# Human Rights Committee (CCPR)



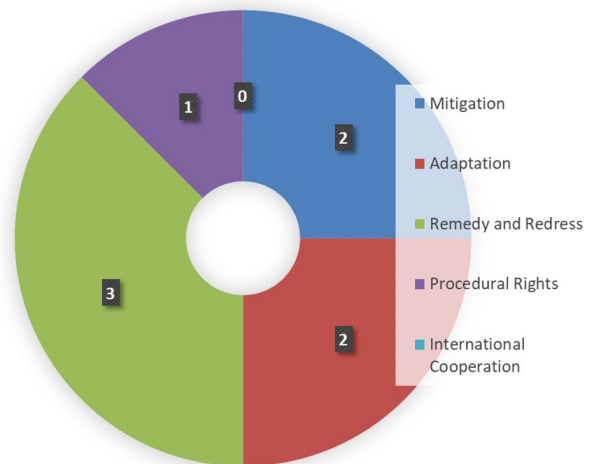
© Alan Greig, Flickr - CC BY-NC-SA 2.0

This note reviews the outputs of the CCPR related to climate change in 2023 and complements our previous notes dedicated to such outputs up to 2022.

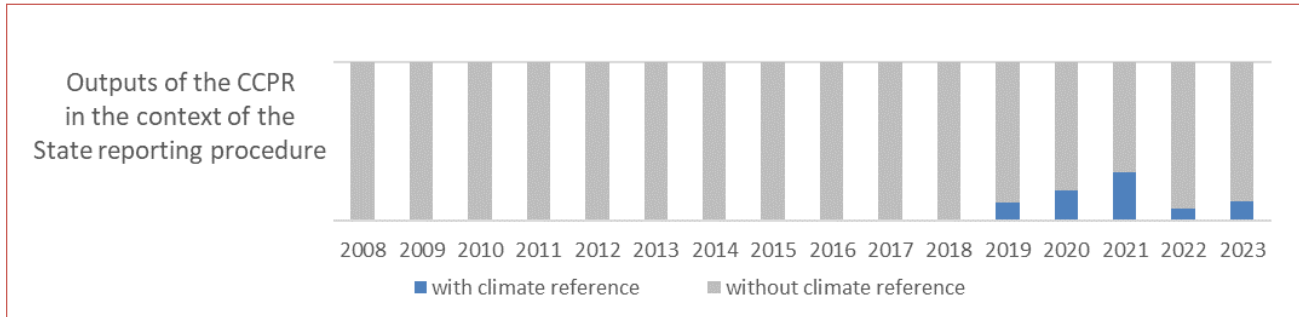
Outputs of the CCPR in 2023, by country category



Themes addressed by the CCPR in the State review procedure in 2023



In 2023, for the fifth year in a row, the Human Rights Committee (CCPR) addressed climate change in its State review procedure. It brought it up in two Concluding Observations (COB) and two List of Issues (LOIs). This reverted the decline experienced last year when the Committee only addressed climate change in one LOI and one COB.



In its COB to Brazil, the CCPR, although not necessarily in connection with climate change, stressed its concern in relation to “the lack of substantial action to mitigate or address the impact of climate change and environmental degradation” and the “extensive deforestation in the Amazon and the lack of a legal and institutional framework adequate for its protection.” In light of that, the Committee called on Brazil to “[s]trengthen the legal framework to combat and alleviate the consequences of climate change and environmental degradation.”

Additionally, in relation to mitigation, in the LOIs to Namibia and Pakistan, the Committee required the States to provide information related to “efforts to prevent and mitigate the effects of climate change and environmental degradation.”

The CCPR also focused on specific obligations related to Indigenous Peoples (e.g., COB to Brazil). In that sense, the CCPR touched on the requirement of free, prior and informed consent (e.g., LOIs to Namibia and Suriname) and informed and meaningful participation (e.g., COB to Brazil and LOI to Jamaica).

Another issue analyzed by the CCPR was the rights of environmental defenders (e.g., COB to Panama and LOI to Serbia). In the COB to Panama, the Committee showed its concern regarding the deaths and injuries due to excessive use of force during protests against mining and hydroelectric projects (e.g., COB to Panama). The Committee emphasized the obligation to protect human rights defenders, which is incumbent upon States.

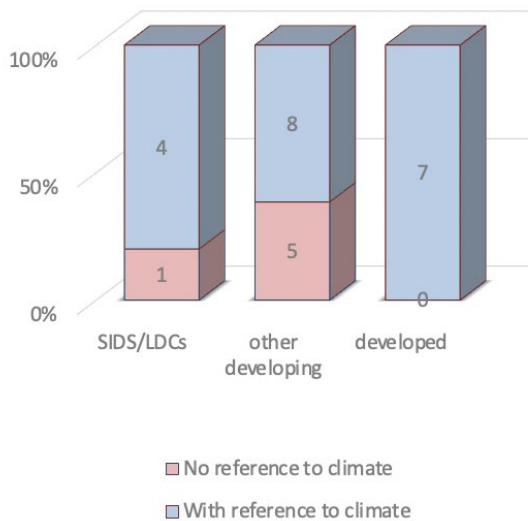
# Committee on Economic, Social and Cultural Rights (CESCR)



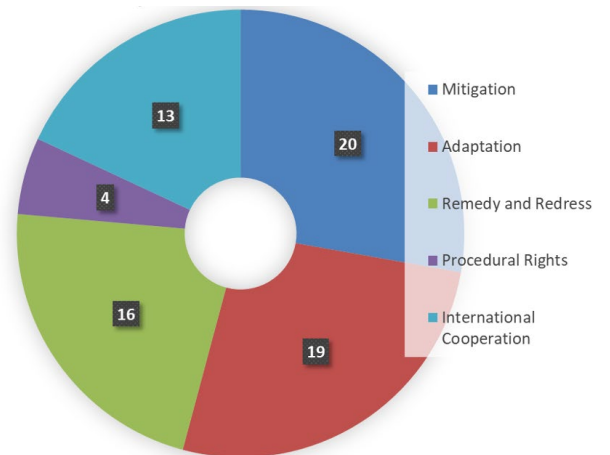
© Alan Greig, Flickr - CC BY-NC-SA 2.0

This note reviews the outputs of the CESCR related to climate change in 2023 and complements our previous notes dedicated to such outputs up to 2022.

Outputs of the CESCR in 2023, by country category

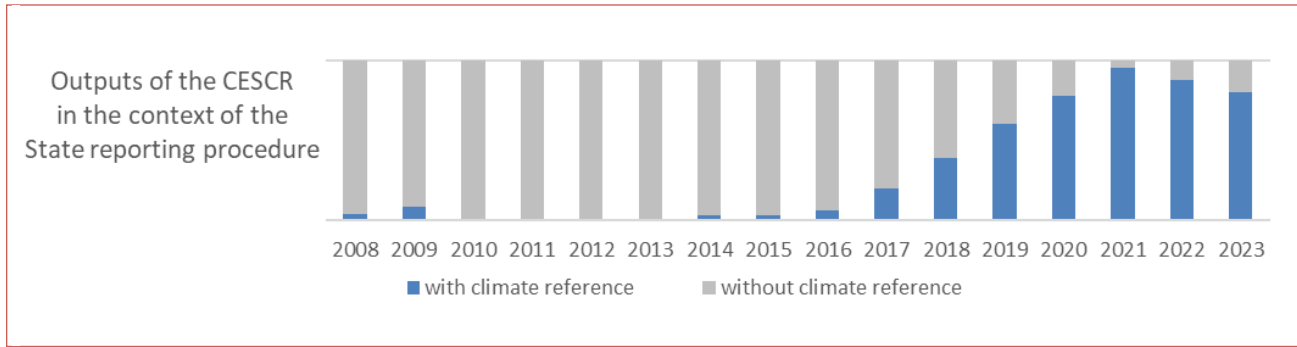


Themes addressed by the CESCR in the State review procedure in 2023





In 2023, the Committee on Economic, Social and Cultural Rights (CESCR) referenced climate change in twelve Concluding Observations (COBs) and in seven of its eleven Lists of Issues (LOIs). Although in the last year, the Committee released fewer outputs than in years prior (for instance, in 2022, the CESCR released twenty-seven outputs while it released twenty-three in 2023), it still addressed climate change in most of its work, and the recommendations made to States were substantive.



The Committee thoroughly reviewed State parties' mitigation policies in seventeen of its outputs. In line with its previous work, the CESCR continued to stress parties' commitments under the Paris Agreement (e.g., COBs to Armenia, Brazil, China, Palestine, Panama, Portugal, Lithuania, and Qatar and LOIs to Croatia, the UK, Malawi, Rwanda, the Netherlands, the Russian Federation, and Kenya). Particularly, in the COBs to Brazil, Panama, and Portugal, the CESCR noted that the State parties were not on track to meet their nationally determined contribution (NDC) under the Paris Agreement. In the COB to Lithuania, the CESCR called on the State to "enhance its efforts to mitigate the adverse impacts of climate change ... and for the implementation of its transition to a net zero ... by 2050." Additionally, in the COBs to Armenia and Panama, the Committee called on the States to promote alternative and renewable energy sources. In the COB to Brazil, the Committee identified concrete measures that States could take to tackle the climate crisis, recommending that the State party "[c]onsider adopting a national emissions trading system" and "take all the measures necessary to stop deforestation." Similarly, in the COB to China, the Committee recommended to "expand the emissions trading system."

The Committee addressed adaptation in nineteen statements. In many outputs, it referred to national adaptation plans (NAPs) under the Paris Agreement. For instance, the Committee requested Cambodia, Palestine, and Yemen to develop a NAP. In some instances, the Committee praised existing NAPs but asked the State to reinforce those legal frameworks. In the COB to Portugal, the CESCR stressed the need for more measures, such as "fire prevention through the implementation of climate-smart and fire-smart land management such as afforestation and reforestation, farmland recovery and agroforestry, and the use of fuel reduction and fuel-conversion techniques that promote less flammable and more resilient types of land cover." The Committee also recommended to Portugal "adopt[ing] food systems that protect the rights of farmers, including migrant farmworkers, and the environment."

The Committee called on States to consider the adaptation needs of local communities and marginalized and disadvantaged groups (e.g., COBs to Brazil, Cambodia, and China). Additionally, in the COB to Panama, the CESCR highlighted the importance of the participation of Indigenous Peoples in the design of adaptation policies by asking the State to guarantee that “Indigenous Peoples are effectively consulted and fostering their full participation in the design and implementation of relevant policies and programmes.” Furthermore, the CESCR also noted the importance of consultation processes and obtaining free, prior, and informed consent in relation to decisions that are likely to affect the rights of indigenous communities (e.g., COBs to Brazil and Cambodia).

The Committee addressed fossil fuels in 6 outputs (e.g., COBs to Chad, Qatar, China and Palestine, and LOIs to the Netherlands and the Russian Federation). In its COB to Qatar, the Committee noted with concern that the State “remains heavily reliant on natural gas, and to a lesser extent on oil, as its main economic engine and source of revenue, but also because of its plans to boost further its production of and trade in liquified natural gas.” In that case, the Committee called on Qatar to “further promot[e] alternative and renewable energy sources.” In the LOI to the Netherlands, the Committee inquired the State as to the “progress made in overhauling the oil refinery industry in Curaçao with a view to averting pollution.” Moreover, the Committee asked China to make “all efforts to replace fossil fuel in its energy mix, including by increasing renewable energy as an alternative” (e.g., COB to China). In the COB to China, the Committee also addressed extraterritorial obligations. In particular, the CESCR welcomed China’s decision to “cease to build new coal power projects overseas” but noted with concern that the State’s “unsustainable practices have had an adverse impact on climate change beyond the State party’s borders.” Considering that, the Committee required that China “[s]uspend permissions to construct coal-fired power plants and pause ongoing financing for construction, including in the State party and abroad.”

In 2023, the Committee continued its work on the [General Comment on Sustainable Development and the International Covenant on Economic, Social and Cultural Rights](#). In particular, a Day of General Discussion was held in February 2023 to inform the drafting of this General Comment (GC).

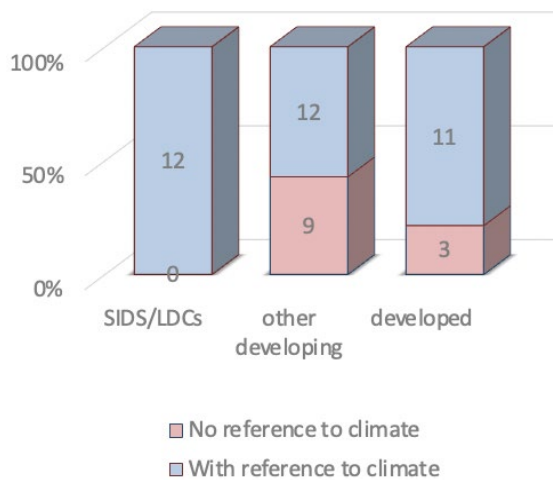
# Committee on the Elimination of Discrimination Against Women (CEDAW)



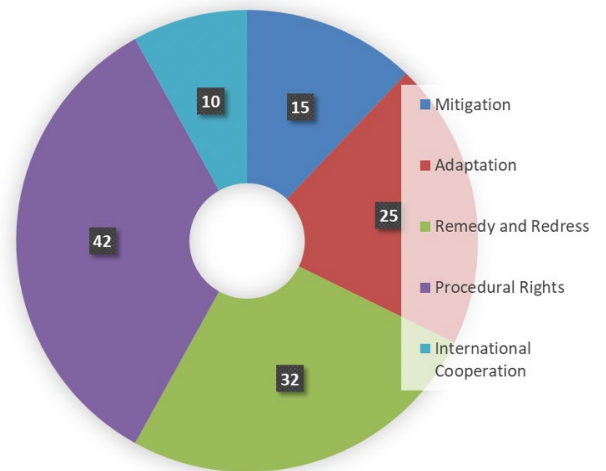
© Alan Greig, Flickr - CC BY-NC-SA 2.0

This note reviews the outputs of the CEDAW related to climate change in 2023 and complements our previous notes dedicated to such outputs up to 2022.

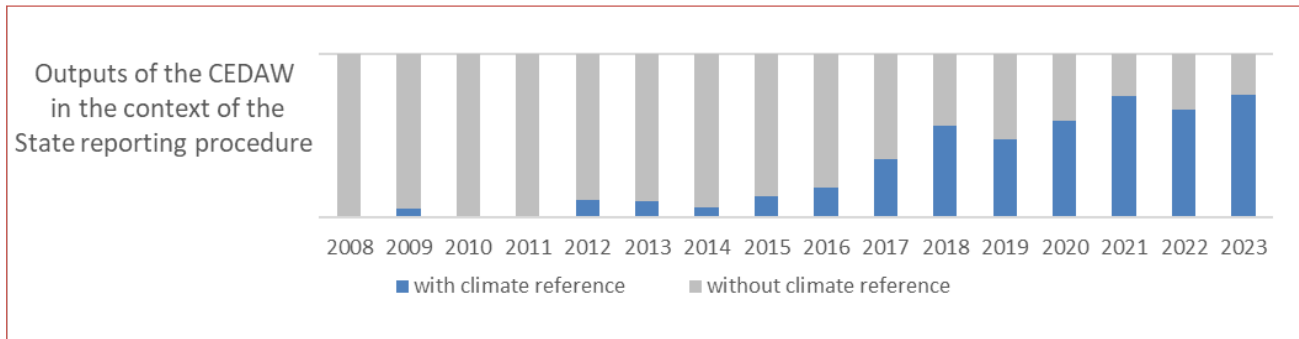
Outputs of the CEDAW in 2023,  
by country category



Themes addressed by the CEDAW in the State  
review procedure in 2023



In line with the work from previous years, the Committee on the Elimination of Discrimination Against Women (CEDAW) was the one that issued the highest number of climate-related outputs in its State reporting procedure work in 2023 — including Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs). It made climate-related recommendations or asked climate-related questions to more than two-thirds of the States that it considered (35 out of 43).



Throughout its outputs, the Committee stressed climate change’s differentiated impact on women (e.g., COBs to Slovenia, Costa Rica, Norway, Mauritania, China, and Venezuela, among others). In that sense, it emphasized the importance of implementing gender-responsive strategies to address environmental degradation and climate change. In particular, the Committee focused on the importance of integrating a gender perspective into States’ framework for climate change adaptation and disaster risk reduction in twenty-four of its outputs (e.g., COBs to Slovenia, Germany, China, Venezuela, Iceland, Bhutan, and France and LOIPRs to Mexico, Mauritius, Laos, Cuba, and Argentina). In doing so, the CEDAW called attention to the importance of its [General Recommendation No. 37 \(2018\) on the gender-related dimensions of disaster risk reduction in the context of climate change](#). Furthermore, the Committee also touched upon how rural women, Indigenous women, women of African descent, migrant and refugee women, women with disabilities, and women living in poverty face an even more significant impact of climate change (e.g., COBs to Mauritania, Costa Rica, Venezuela, Timor-Leste, the Philippines, Jamaica, Malawi, Nicaragua, and Guatemala). In light of the disproportionate impact of climate change on women’s rights, the Committee emphasized the need for greater participation of women in processes, programs, and policymaking (e.g., COBs to Albania, Norway, Costa Rica, Mauritania, and Slovakia).

The Committee also considered the issue of mitigation policies, although with less frequency than adaptation and disaster risk reduction (eleven outputs). In particular, the CEDAW in the COB to Spain called on the State to guarantee that “a gender perspective is systematically integrated into the development and implementation of climate change mitigation policies.” Interestingly, the Committee, in the COB to Guatemala, asked the State to “[e]nsure the participation of indigenous women in consultation processes related to ... climate mitigation and adaptation programs ... and that any use of their territories is subject to their free, prior, and informed consent and adequate compensation.” A similar recommendation was made in relation to indigenous women in the Philippines (e.g., COB to the Philippines). Here again, with such a recommendation, the Committee highlighted the need to integrate a human rights and gender perspective into climate policy.

The Committee considered issues related to fossil fuels extraction (six outputs). In its COB to Norway, the Committee noted with concern that Norway had “further expanded its oil and gas industry, including by granting forty-seven new oil and gas exploration permits in January 2023, including in the Arctic, where the temperatures rise particularly fast, and despite the EU’s aim to ban extraction in the Arctic.” In line with this, the CEDAW asked the State to “[r]eview its climate change and energy policies, in particular its policy on the extraction and export of oil and gas.” The Committee also required Germany to “[a]ccelerate its reduction of greenhouse gas emissions and utilization of fossil fuels” (e.g., COB to Germany). Additionally, the Committee required Sao Tome and Principe to “[i]dentify the impact of the extractive oil industry on rural women and how possible risks could be mitigated.”

The Committee also addressed the issue of climate finance (five outputs). In the COBs to Norway and Mauritania, the CEDAW called on the States to actively support and participate in creating and operating a loss and damage fund within the framework of the UNFCCC. The Committee also required Timor-Leste and the Philippines to guarantee the participation of women in the creation of the loss and damage fund (e.g., COBs to Timor-Leste and the Philippines).

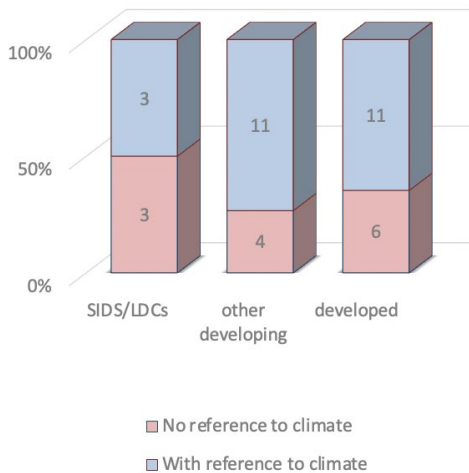
# Committee on the Rights of the Child (CRC)



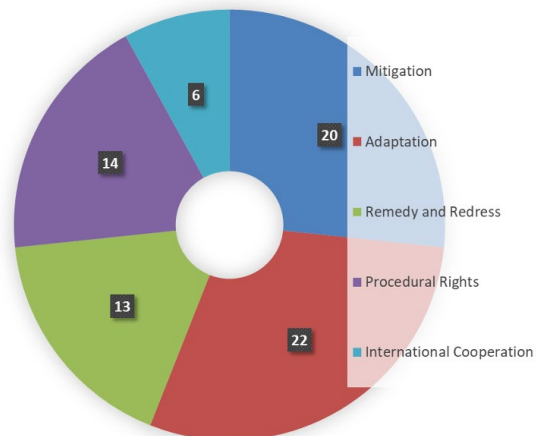
© Alan Greig, Flickr - CC BY-NC-SA 2.0

This note reviews the outputs of the CRC related to climate change in 2023 and complements our previous notes dedicated to such outputs up to 2022.

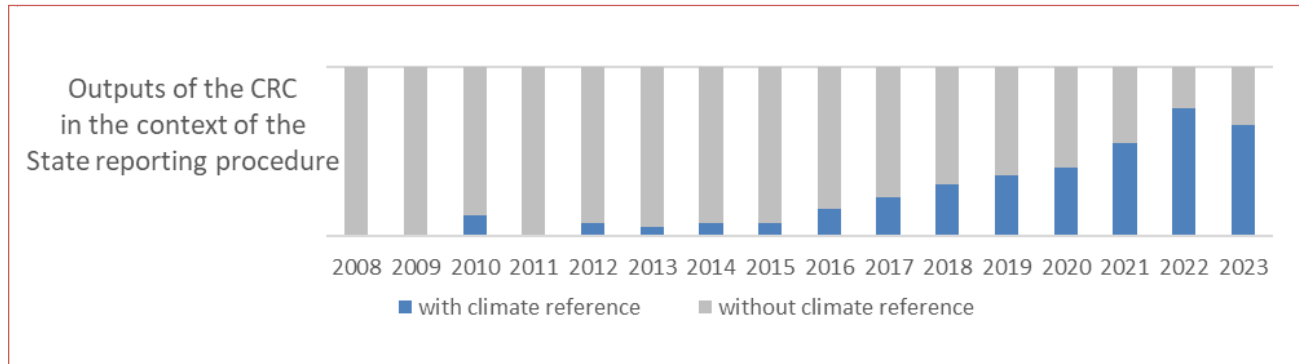
Outputs of the CRC in 2023,  
by country category



Themes addressed by the CRC in the State  
review procedure in 2023



The Committee on the Rights of the Child (CRC) has maintained its sustained efforts to address the impacts of climate change on children's rights. The Committee has done so increasingly over the years through its State reporting procedure, General Comments (GC), and thematic work. Last year, its work touched on various climate-related issues. In particular, the Committee included "extreme climate-related crisis" among the main challenges to the realization of children's rights and the main causes of the "increasing failure to uphold... human rights law obligations around the world."



In 2023, the CRC referred to climate change in twenty-five State review procedures — in Concluding Observations (COBs), Lists of Issues (LOIs), or Lists of Issues Prior to Reporting (LOIPRs) — out of a total of forty-two outputs. In line with its work from previous years, the CRC addressed climate change in reviews of developed States more frequently than in reviews of Small Islands Developing States (SIDS), Least Developed Countries (LDCs), and other developing countries.

The Committee gave great weight to the existence of normative frameworks to tackle climate change when reviewing each country's compliance with the Convention. In that sense, it commended States for ratifying international treaties such as the Paris Agreement (e.g., COBs to Bolivia and Finland) and national laws to fight climate change (e.g., COBs to Sweden and Finland). The CRC inquired States on their legislative frameworks and measures pertaining to climate change (e.g., LOIs/LOIPRs to Argentina, Dominican Republic, Spain, Kyrgyzstan, Senegal, Liechtenstein, and Egypt) and also called on States to better regulate at the domestic level issues related to the environment and climate change (e.g., COBs to Turkiye, Kyrgyzstan, Dominican Republic, Liechtenstein, and the UK).

As in previous years, the Committee continued to give great weight to issues related to adaptation. The Committee was particularly concerned about the participation and empowerment of children in climate change policymaking and initiatives (fourteen references) and children's awareness of climate change (twelve references). The Committee further noted the importance of climate activism and called on the UK in its COB to guarantee the right to freedom of association and peaceful assembly. The CRC also focused on the specific vulnerability to climate change of groups of children, such as the Sami (COB to Finland) and the Māori and Pasifika (COB to New Zealand).

The Committee valued the assessment of the effects of climate change as an important tool to identify specific needs and impacts that children may have. For instance, it recommended that Sao Tomé and Príncipe “[c]onduct an assessment of the effects of climate change and environmental degradation on children’s health and, on that basis, design and implement, with the participation of children, a well-resourced strategy to remedy the situation with measures to address priority concerns, especially with regard to water, air and soil pollution.”

The Committee continued to pay attention to States’ obligations to mitigate climate change. In 2023, mitigation was raised in twenty outputs. In its COB to Azerbaijan, the Committee called on the State to “[h]armonize its current climate mitigation policy with its obligation to protect the rights of children” and “[c]onsider the impact of climate change on the rights of the child in its energy policy, including in relation to fossil fuel extraction and fossil fuel subsidies.” Furthermore, in its LOIPR to Norway, the Committee required the State to explain the measures taken to “[r]educe greenhouse gas emissions in line with its international commitments and consider the impact of climate change on the rights of the child in its energy policy.”

The Committee continued to devote attention to private actors’ contribution to environmental harm, often also in relation to fossil fuel production (nine references). In its COB to Finland, the Committee recommended that the State party “[e]nact national corporate responsibility legislation for business enterprises and their subsidiaries operating in or managed from the State party’s territory to identify, prevent, mitigate and account for activities that negatively affect human rights or endanger children’s rights, including risks posed by global warming.” In its COB to Sweden, the Committee asked the State to “[e]stablish a clear regulatory framework for business enterprises and their subsidiaries operating in or managed from the State party’s territory to identify, prevent, mitigate and account for activities that negatively affect human rights or endanger children’s rights, including risks posed by fossil fuel production.”

Four COBs and two LOIs/LOIPRs addressed the issue of extraterritorial obligations (ETOs). In its COB to the UK, the Committee recommended that the State party “[t]ake legislative and other measures to uphold its extraterritorial obligations concerning impacts on the environment, including in the context of international cooperation.” In its COB to Azerbaijan, the Committee asked the State to “[h]armonize its current climate mitigation policy with its obligation to protect the rights of children, in particular the rights to health, food and an adequate standard of living, both in Azerbaijan and abroad.” Furthermore, in the LOIPR to Norway, the Committee required the State to explain the measures taken to “[i]nvest in alternative energy and establish safeguards to protect children, both in the State party and abroad, from the negative impacts of fossil fuels.”

Four outputs mentioned fossil fuels explicitly. In the LOIPR to Bulgaria, the Committee required the State party to inform on measures taken to “[e]nsure that greenhouse gas emission targets and deadlines are compliant with the international commitments set forth in the Paris Agreement, to phase out the use of fossil fuels and to accelerate the transition to renewable energy.”



The Committee also released its [General Comment No. 26 \(2023\) on children's rights and the environment with a special focus on climate change](#). In this GC, the CRC stressed the pressing need for climate action and how the triple planetary crisis threatens children's rights. In that sense, the CRC indicated that tackling the climate crisis is key to the fulfillment of children's human rights. At the same time, it noted that the focus of the GC is the climate crisis; however, its application is possible to other environmental concerns.

The GC highlighted the responsibility of States under the Convention to address environmental degradation and climate change. In that sense, the CRC emphasized that “[a] clean, healthy and sustainable environment is both a human right itself and necessary for the full enjoyment of a broad range of children's rights.”

Additionally, in the introductory sections, the GC touched on the principle of intergenerational equity and the interests of future generations. In this regard, the Committee called on States to consider foreseeable environment-related threats that may have implications in the future. Here, the CRC stressed that the duties of States encompass the interests of future generations.

In its second section, pertaining to specific rights under the Convention, the CRC evaluated how certain provisions in the Convention relate to the environment. Here, the GC addressed issues related to the right to non-discrimination (Article 2), the best interest of the child (Article 3), the right to life, survival and development, the right to be heard (Article 12), freedom of expression, association and peaceful assembly (Articles 13 and 15), access to information (arts. 13 and 17), the right to freedom from all forms of violence (Article 19), the right to the highest attainable standard of health (Article 24), the right to social security and adequate standard of living (Articles 26 and 27), the right to education (Articles 28 and 29 (1) (e)), the rights of Indigenous children and children belonging to minority groups (Article 30), and the right to rest, play, leisure and recreation (Article 31). For each of these rights, the Committee analyzed their interplay with climate change. In each case, the Committee evaluated how these are connected, either because the rights are particularly threatened by climate change or because these play an instrumental role in the environment's protection.

In the third section of the GC, the CRC assessed the scope of the right to a clean, healthy, and sustainable environment. The Committee indicated that this is “implicit in the Convention and directly linked to, in particular, the rights to life, survival, and development, under article 6, to the highest attainable standard of health, including taking into consideration the dangers and risks of environmental pollution, under article 24, to an adequate standard of living, under article 27, and to education, under article 28, including the development of respect for the natural environment, under article 29.” The CRC also affirmed that the right to a clean, healthy, and sustainable environment encompasses vital elements such as clean air, a safe and stable climate, healthy ecosystems and biodiversity, safe and sufficient water, healthy and sustainable food and non-toxic environments. Additionally, the CRC indicated a series of immediate steps States should take to realize this right: (i) improve air quality, (ii) ensure access to safe water and sanitation, (iii) transform agriculture and fisheries to produce healthy and sustainable food, (iv) phase out from fossil fuels and ensure a fair and just transition, (v) conserving biodiversity, (vi) prevent marine pollution and (vii) regulate toxic substances. Furthermore, the Committee weighted on the procedural elements of the right, such as access to information, participation in decision-making, and child-friendly justice systems, which are essential for empowering children. Moreover, the Committee urged States to incorporate children's environmental rights in their national legislation and integrate them in to all decisions and measures concerning children.

In the fourth section, the GC covered general measures of implementation incumbent upon States. The CRC went through the implications of the obligation to respect, protect, and fulfill; the requirement of conducting a child rights assessment; children’s rights and the business sector; access to justice and remedies; and international cooperation. Here, the Committee addressed the climate dimensions across all of these issues. In the section on access to justice and remedies, the CRC affirmed that States have “an obligation to establish non-judicial and judicial mechanisms to provide access to effective remedies for abuses of children’s rights by business enterprises, including as a result of their extraterritorial activities and operations.” In this sense, the CRC highlighted the importance of ensuring accountability and protection for children in relation to business activities.

The fifth and last section of the GC is devoted to climate change, where the Committee unpacked States’ obligations in more detail, including in relation to mitigation, adaptation, loss and damage, the regulation of business activities, and climate finance. In relation to mitigation, the Committee requested States to take urgent collective action to mitigate greenhouse gas emissions. Further, the CRC also emphasized the need for an “urgent increase in the design and implementation of child-sensitive, gender-responsive and disability-inclusive adaptation measures” that “should be targeted at reducing both the short-term and the long-term impacts” of climate change.

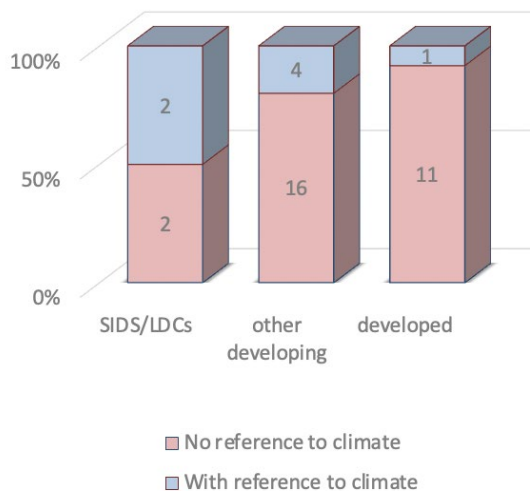
# Committee on the Elimination of Racial Discrimination (CERD)



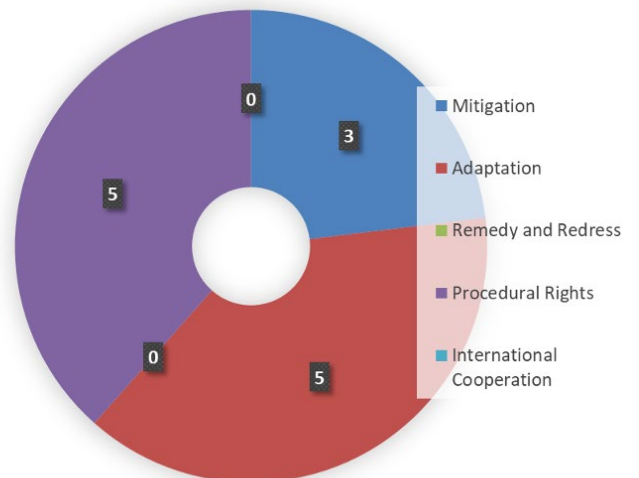
© Alan Greig, Flickr - CC BY-NC-SA 2.0

This note reviews the outputs of the CERD related to climate change in 2023 and complements previous notes dedicated to such outputs up to 2022.

Outputs of the CERD in 2023, by country category



Themes addressed by the CERD in the State review procedure in 2023



The CERD started looking at climate change in 2019. In 2023, the Committee slightly increased the number of climate-related outputs (seven compared to three in 2022) out of thirty-six total outputs. Additionally, other issues related to the protection of the environment were addressed in four COBs and three Lists of Themes (LOTs). The Committee addressed the impacts of climate change and climate policies on vulnerable populations, including most affected ethnic groups, ethno-religious minorities, and Indigenous peoples in Niger, the Philippines, the Russian Federation, Senegal, and Bolivia.

In the COBs to Niger, the Russian Federation, and Senegal, the Committee noted the disproportionate impact climate change has on the rights of minorities. In that sense, the CERD noted that climate change could imply a denial of “Indigenous Peoples’ right to use and enjoy their traditionally owned lands and natural resources, and thus their rights to food and to a clean, healthy and sustainable environment” (e.g., COB to the Russian Federation).

In the COB to Niger, the Committee touched on the issue of mitigation measures against climate change. In that regard, the CERD underlined the importance of “[e]nsur[ing] that climate change adaptation measures ... take into account the specific needs of the most affected ethnic groups.” Furthermore, in the COB to the Russian Federation, the Committee called on the State to “[a]dopt measures to prevent, mitigate and redress the impact ... climate change, on the lands, territories, and resources of Indigenous Peoples, with a view to protecting their customs and traditional ways of life and the right to a clean, healthy, and sustainable environment.” The CERD also inquired about mitigation measures adopted by States in the LOTs to Senegal and Vietnam.

The Committee also showed its concern in relation to the “risk of displacement resulting from conflict, natural disasters, and climate change-related disasters and forced displacement in the context of large-scale extractive and development projects” (e.g., COB to the Philippines). In that sense, the Committee noted how such phenomena particularly affect minority groups and called on the Philippines to take preventive measures.

There also appear to be a few missed opportunities. For example, when examining States like Argentina or the Russian Federation, the Committee mentioned in its COBs the extraction of natural resources, but not of fossil fuels, despite evidence on ongoing oil and gas extraction in Indigenous territories and of the impacts on communities.

More broadly, concerning the protection of the environment, the CERD also noted the importance of consultation processes and obtaining free, prior, and informed consent from communities prior to authorizing extractive and development projects (e.g., COBs to Argentina, Bolivia, Niger, and the Philippines). In 2023, the Committee published its [First draft of... General recommendation No. 37 \(2023\) on Racial discrimination in the enjoyment of the right to health](#) under Article 5 (e)(iv) of the ICERD. The General Comment devotes a paragraph to climate change, stating that it “results in several negative heat-related health outcomes, along with increase in air-pollution, extreme weather events and natural disasters,” and that it also expands disease vectors “by destroying infrastructure and by reducing access to underlying determinants of health, such as water and nutrition.” The General Comment adds that climate change also affects mental health, “both directly and indirectly due to its impact on social networks and cultural traditions,” noting that racial and ethnic minorities are disproportionately affected due to a number of geographical, socioeconomic, cultural, and psychological factors. When discussing international assistance and cooperation, the General Comments specify that, guided by the principle of international solidarity, “States should take all necessary national and multilateral measures, including temporary waivers of intellectual property protections on healthcare technologies, to mitigate the disparate impact of global challenges, such as pandemics, climate change and disasters, and their socioeconomic consequences on groups and minorities protected under the Convention.”

As governments and intergovernmental organizations have recognized, climate change has adverse impacts on a wide range of human rights. Consequently, existing human rights obligations defined under legally binding treaties must inform climate action. These obligations require that climate policies effectively protect the rights of those most affected by the climate crisis, including by averting harm and preventing further threats through mitigation and the effective regulation of private actors. They also require that the design of these policies builds on the principles of non-discrimination and meaningful public participation. A growing number of national, regional, and international courts are being asked to review the compatibility of States' climate policies in the context of these human rights obligations. Human rights treaty bodies (HRTBs) — established to monitor the implementation of the United Nations human rights treaties — have a critical role to play in informing decision-makers' and other actors' understanding of the scope of these human rights obligations in the context of climate change. During the past decade, these bodies have provided many valuable recommendations to States, illustrating the relevance of international human rights obligations in driving ambitious and just climate policies. This Synthesis Note reviews the outputs adopted by HRTBs in 2023 with regard to climate change, complementing our 2023 Synthesis Note, which provided an overview of all relevant HRTBs' outputs adopted in 2022, and our 2022 and 2020 Synthesis Notes, reviewing developments of the previous years. This note describes the important role that the HRTBs have continued to play in 2023 to guide and inform States' responses to climate change and also highlights some of the pressing issues that could benefit from more proactive engagement by HRTBs in the future so as to further articulate States' existing human rights obligations related to key dimensions of climate policies.

Since 1989, the Center for International Environmental Law (CIEL) has used the power of law to protect the environment, promote human rights, and ensure a just and sustainable society. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization that seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. *States' Human Rights Obligations in the Context of Climate Change* by The Center for International Environmental Law is licensed under a Creative Commons Attribution 4.0 International License. Authors: Francesca Mingrone (CIEL) and Magdalena Belén Rochi Monagas (GI-ESCR), with support by Sébastien Duyck, Lien Vandamme, Erika Lennon, Joie Chowdhury, Carlotta Garofalo, and Olivianne Wohlhauser (CIEL), and Alejandra Lozano Rubello and Magdalena Sepúlveda Carmona (GI-ESCR).

© August 2024

**Design & Layout:** Tyler Unger

**Cover Image:** © Alan Greig, Flickr - CC BY-NC-SA 2.0



[ciel.org](https://ciel.org)

Instagram  
[@ciel\\_org](https://www.instagram.com/ciel_org)

Twitter  
[@ciel\\_tweets](https://twitter.com/ciel_tweets)

LinkedIn  
[linkedin.com/ciel.org](https://www.linkedin.com/ciel.org)

---

  
CENTER for INTERNATIONAL  
ENVIRONMENTAL LAW

  
Global Initiative  
for Economic, Social  
& Cultural Rights

---