



Call for input of the UN Special Rapporteur on human rights defenders

“The contributions made by human rights defenders to achieving the Sustainable Development Goals and the challenges they face in this work”

June 2024

INTRODUCTION

1. As the triple planetary crisis worsens, so does the violence against those protecting our environment, and we welcome this important call for input by the UN Special Rapporteur on human rights defenders with a focus on the Sustainable Development Goals (SDGs). In this submission, Amnesty International, the Center for International Environmental Law (CIEL), the Egyptian Commission for Rights and Freedoms (ECRF), and the Global Climate Legal Defense Network (CliDef) focus on SDG 13 ‘climate action’ and in particular the context of the United Nations Framework Convention on Climate Change (UNFCCC). As environmental human rights defenders working on climate justice are increasingly targeted with violence, harassment, and criminalization around the world, civic space is also limited in the UN, including in the context of the very forum created to address the climate crisis. **In this contribution we highlight challenges and risks faced by civil society and activists in the context of UNFCCC sessions with regards to meaningful public participation in the negotiations, closed civic space and the human rights situations in host countries, restrictions on protest in the UN-controlled spaces (‘Blue Zone’), and undue corporate influence.**

CHALLENGES FOR MEANINGFUL PARTICIPATION IN THE UNFCCC

2. Despite their instrumental role in informing and advancing discussions in the UNFCCC processes, civil society organizations and rights holders face significant challenges hindering their meaningful participation. Drawing from examples at several recent UNFCCC Conference of the Parties (COPs) and other UNFCCC meetings, this section explains that, alarmingly, civil society and other observers are sidelined in the UNFCCC process in various ways, from being denied accreditation to being unable to access the actual negotiation process.

3. In 2021, COP26 in Glasgow (UK) took place during the COVID-19 pandemic, and attendees faced significant challenges traveling to and engaging in the negotiations. Citing constantly changing COVID-19 restrictions, lack of access to vaccines, increased travel costs, and the substantial barriers to getting UK visas for those traveling from the Global South, around two-thirds of civil society organizations that usually participate in the COP had to postpone their trips.¹ Even those who made it to Glasgow faced closed doors: in the first two days, only two tickets per observer constituency, which are the groups through which non-State actors are represented in the UNFCCC (Indigenous Peoples, environmental NGOs, youth and children, women and gender groups, trade unions, farmers, scientists, local governments and municipalities, and the private sector), were allowed to

¹ The Guardian (2021), “Cop26 legitimacy questioned as groups excluded from crucial talks”, <https://www.theguardian.com/environment/2021/nov/08/cop26-legitimacy-questioned-as-groups-excluded-from-crucial-talks> (accessed: 31.05.24).

cover six negotiation rooms, rendering it impossible to comprehensively follow the process and conduct bilateral meetings with State representatives.² Following the lifting of the ticketing system, one observer per constituency was potentially allowed in each room, provided that there was enough space per social distancing rules, which given the diversity of views represented per observer constituency, significantly limited the ability to participate meaningfully. In comparison, Parties did not have limits on badges or largely on their ability to enter most rooms. In 2022, at COP27 in Sharm El-Sheikh (Egypt), local NGOs and environmental defenders had to navigate significant barriers. A process that the UNFCCC facilitates to allow national NGOs a one-off registration for COP participation without UNFCCC accreditation was not made public, and Egyptian authorities privately selected and screened NGOs to apply.³ For rejected requests, no justification was provided.⁴ Local NGOs criticized the UN for not intervening in this selection process, citing Egypt's poor record in safeguarding human rights.⁵ In 2023, participants at COP28 in Dubai (United Arab Emirates) also dealt with substantial hurdles. Participants faced high accommodation and transportation costs, and in at least one case, the non-issuance of a COP visa to a registered participant,⁶ and observers were frequently denied entry to the negotiation rooms.⁷ Participants noted that organizers frequently informed them that the rooms were at capacity, and thus they could not enter.⁸ However, in many instances, there were still open seats or rooms that had plenty of space for more chairs, which were lacking. This, coupled with the lack of representatives from local civil society organizations given the highly restrictive situation facing independent civil society in the country,⁹ undermined the inclusivity of COP28 despite it being touted as the 'most inclusive COP ever' by the Presidency because of the high number of participants.

4. Restrictions and barriers on public participation are not limited to COPs but also manifest in meetings of Constituted Bodies and other UNFCCC-related meetings. During the process of the Transitional Committee to develop recommendations for a Governing Instrument for the newly established Loss and Damage Fund (LDF) in 2023, observers repeatedly called out restrictions on their meaningful participation, both in terms of explicit limitations to the number of people allowed

² CIEL (2021), "Public Participation and COP26: A Report from Glasgow",
<https://www.ciel.org/public-participation-and-cop26-a-report-from-glasgow>

³ The Guardian (2022), "Egyptian NGOs complain of being shut out of Cop27 climate summit",
<https://www.theguardian.com/environment/2022/aug/24/egyptian-ngos-complain-of-being-shut-out-of-cop27-climate-summit> (accessed: 31.05.24).

⁴ Equal Times (2022), "Egypt's NGOs and activists are not welcome at COP27",
<https://www.equaltimes.org/egypt-s-ngos-and-activists-are-not?lang=en> (accessed 31.05.24).

⁵ The Guardian (2022), "Egyptian NGOs complain of being shut out of Cop27 climate summit",
<https://www.theguardian.com/environment/2022/aug/24/egyptian-ngos-complain-of-being-shut-out-of-cop27-climate-summit> (accessed: 31.05.24).

⁶ Human Rights Watch, "As COP28 Opens, UN Should Take UAE to Task - Host Country Should Stop Rights Repression, Drop Fossil Fuel Plans", 29 November 2023,
<https://www.hrw.org/news/2023/11/29/cop28-opens-un-should-take-uae-task>

⁷ The Conversation (2024), "Access and exclusion: What COP28 revealed about the dynamics of global climate diplomacy",
<https://theconversation.com/access-and-exclusion-what-cop28-revealed-about-the-dynamics-of-global-climate-diplomacy-220198> (accessed: 31.05.24).

⁸ Ibid

⁹ Amnesty International, "UAE: The Human Rights Situation in the United Arab Emirates Ahead of COP28", 1.6.2023,
<https://www.amnesty.org/en/documents/mde25/6755/2023/en>.

to attend in person and being relegated to overflow rooms rather than being allowed in the room of the proceedings, and in terms of logistical challenges related to late notifications of meetings and confirmations of accreditation, leading to challenges in securing resources and travel documents.¹⁰ This is particularly problematic considering the nature of the LDF, which should be carefully designed to ensure that the needs and priorities of those most vulnerable and marginalized are met, and that their rights are respected and promoted. Similar restrictions were put in place for the first official Board meeting of the LDF that took place in Abu Dhabi (UAE) from April 30th to May 2nd 2024, posing a regression from practices of the Green Climate Fund a decade earlier, even at its first Board meetings.¹¹ The restrictions were denounced by NGOs¹² including through a letter to the Board signed by 342 organizations.¹³ Similarly, the Article 6.4 Supervisory Body, which is tasked with adopting policies and rules to operationalize the carbon market under the Paris Agreement, has "open" meetings, but little access. While the meetings are webcast, those attending in person are relegated to an overflow room to watch the meeting rather than being able to be in the room even when the room is large enough to accommodate the observers watching. Further, while the Supervisory Body claims to value input from observers, it often presents documents for comment (which are only in English) only giving one or two weeks to receive them.

5. In many instances these restrictions are arbitrary and could be alleviated. While some were due to public health and safety concerns, oftentimes the challenges or logistical such as a lack of chairs in the room (even when there is space), not considering meaningful participation when choosing a venue or negotiation room, or considering ways to limit how many people from each Party needs to be in the room, or related to untimely notifications and arrangements for meetings.

CHALLENGES WITH REGARDS TO RESTRICTIONS OF CIVIC SPACE AND HUMAN RIGHT IN HOST COUNTRIES OF UNFCCC SESSIONS

6. Looking into examples from COP21 in Paris, COP24 in Katowice, COP26 in Glasgow, COP27 in Sharm El-Sheikh, and COP28 in Dubai, this section analyzes how environmental human rights defenders' work has been undermined as a result of a closed civic space and restrictions on freedom of expression, freedom of assembly, independent media, and scientific enquiry in the host countries of UNFCCC sessions.

¹⁰ Climate Action Network, Global Campaign to Demand Climate Justice, Women and Gender Constituency, and YOUNGO, "Meaningful public participation in the 3rd meeting of the Transitional Committee", letter to the Transitional Committee co-chairs and Secretariat, 24.08.2023, <https://us.boell.org/sites/default/files/2023-08/cross-constituency-letter-to-tc-co-chairs.pdf>.

¹¹ Liane Schalatek, Lien Vandamme and Isatis Cintron-Rodriguez, "Limiting frontline voices in the Loss and Damage Fund is a recipe for disaster", comment published by Climate Home News on 26.04.2024, <https://www.climatechangenews.com/2024/04/26/limiting-frontline-voices-in-the-loss-damage-fund-is-a-recipe-for-disaster/>

¹² Amnesty International, "Global: Loss and Damage Fund for climate change must not restrict the role of civil society", 25.4.2024, <https://www.amnesty.org/en/latest/news/2024/04/global-loss-and-damage-fund-for-climate-change-must-not-restrict-the-role-of-civil-society>.

¹³ Asian Peoples' Movement on Debt and Development and 341 other organizations, "Civil Society letter to the Loss and Damage Fund Board", 29.4.2024, <https://docs.google.com/document/d/1Gt2sYP-qiu5l0GonSxYrZFjaLT6x-GTpqj90uBZQ1LA/edit>.

COP21 took place in Paris weeks after terrorist attacks there. Although sporting events, trade fairs, and even Christmas markets were allowed to take place at the time, France imposed a blanket ban on all demonstrations during the Paris Climate Conference, citing a state of emergency.¹⁴ On the grounds that they were suspected of planning violent protests, police placed 24 activists under house arrest in Paris and around France without judicial warrant.¹⁵ Activists and environmental organizations claimed that this constituted a violation of their civil liberties.¹⁶ A few years later, in the context of COP24 in 2018, Polish authorities detained or denied entry to the country to more than 14 environmental defenders, one of them being part of a state delegation, citing concerns about national security.¹⁷ In the cases documented by Amnesty International, the border police did not explain to the COP24 participants how their presence in Poland posed such a threat.¹⁸ These actions followed the adoption of a law in January 2018 that banned any spontaneous assemblies during the conference and expanded surveillance powers.¹⁹ Under this law, the police and other law enforcement authorities are authorized to collect and use personal electronic and digital data.²⁰ The incident was denounced by numerous civil society organizations.²¹ At COP26 in 2021, for climate activists peacefully protesting around the conference, there were concerning reports of police using the tactic of ‘kettling’, using excessive force, cracking down on peaceful direct action, and abusing stop and search powers,²² despite Police Scotland having committed to taking a ‘human rights-based approach’ to policing protest in the run up to the COP. This happened against the backdrop of multiple examples of heavy-handed policing of peaceful climate protests (and other peaceful protests) in the previous years and public criticism of the Police, Crime Sentencing and Courts Bill (now Act).²³

¹⁴ The Guardian (2015), “Paris climate activists put under house arrest using emergency laws”, <https://www.theguardian.com/environment/2015/nov/27/paris-climate-activists-put-under-house-arrest-using-emergency-laws> (accessed: 31.05.24).

¹⁵ Human Rights Watch (2019), “Targeted: Counterterrorism Measures Take Aim at Environmental Activists”, <https://www.hrw.org/news/2019/11/28/targeted-counterterrorism-measures-take-aim-environmental-activists>.

¹⁶ The Guardian (2015), “Paris climate activists put under house arrest using emergency laws”, <https://www.theguardian.com/environment/2015/nov/27/paris-climate-activists-put-under-house-arrest-using-emergency-laws> (accessed: 31.05.24); ABC news (2015), “COP21: Security crackdown in Paris sees climate change protesters under house arrest” [online]. Available at: <https://www.abc.net.au/news/2015-11-29/climate-protesters-banned-in-paris-security-crackdown/6983870> (accessed: 31.05.24).

¹⁷ Amnesty International (2018), “Poland: Arrests and refusal of entry to environmentalists during the COP24 climate talks”, <https://www.amnesty.org/en/documents/eur37/9550/2018/en/> (accessed: 31.05.24).

¹⁸ Ibid

¹⁹ Business and Human Rights Resource Centre (2018), “Environmental human rights defenders prevented from attending COP24”, <https://www.business-humanrights.org/pt/%C3%BAltimas-not%C3%ADcias/environmental-human-rights-defenders-prevented-from-attending-cop24/> (accessed: 31.05.24).

²⁰ Ibid

²¹ Pacific Standard home (2018), “Over a dozen climate activists denied entry to Poland amid Crackdown”, <https://psmag.com/environment/climate-activists-denied-entry-to-poland-for-cop24> (accessed: 31.05.24).

²² The Network for Police Monitoring (2021), “Respect or repression?”, <https://netpol.org/respect-or-repression-report-web-version/>

²³ Amnesty International UK (2022), “The Policing of Cop26 and the Right to Protest in Scotland” <https://www.amnesty.org.uk/blogs/scottish-human-rights-blog/policing-cop26-and-right-protest-scotland>

7. COP27 in 2022 took place against the backdrop of a deep human rights crisis and widespread repression of human rights defenders,²⁴ making it a dangerous space for both Egyptian and foreign climate activists traveling to the country. Thousands of people are arbitrarily detained in Egypt, solely for the peaceful exercise of their human rights or for reasons of discrimination, including prisoner of conscience British Egyptian activist Alaa Abd el-Fattah.²⁵ He is one of the many activists imprisoned by the Egyptian authorities under the pretext of “disseminating fake news,” or “using social media to assist a terrorist organization.”²⁶ In the weeks prior to the conference the Egyptian authorities arrested hundreds of people, simply for calling for protests,²⁷ and many local NGOs were in fear of reprisals for participating in the conference.²⁸ Protests by COP participants, which normally take place in the host city, were also heavily restricted, with stringent rules imposed by authorities, such as only allowing protests between 10:00 and 17:00 in an area far from the conference venue and monitored by cameras.²⁹ The authorities also used surveillance as a form of harassment and intimidation against climate activists in Sharm El Sheikh.³⁰ Police stopped a one man march from Cairo to Sharm El Sheikh - part of the global campaign “Walk for the Planet” - and arrested the Indian climate activist involved.³¹ It also denied entry to a representative of the Danish Institute Against Torture.³² Civil society and Indigenous Peoples’ representatives refused to organize protests under these conditions and instead moved all their protests inside the Blue Zone, which limited the access of people not registered at COP27 to join.

8. Such obstacles persisted during COP28. The UAE government has over the past 10 years severely restricted rights and freedoms, leading to the closure of civic space, limited freedom of expression,

²⁴ Amnesty International (2022), “Egypt: COP27 should not overshadow human rights crisis in the country”, <https://www.amnesty.org/en/documents/mde12/5638/2022/en/>

²⁵ Ibid

²⁶ Cairo Institute for Human Rights Studies (2022), “COP27 and the Human Rights Crisis in Egypt” [online]. Available at: <https://cihrs.org/cop27-and-the-human-rights-crisis-in-egypt/?lang=en> (accessed: 31.05.24).

²⁷ Amnesty International (2022), “Egypt: Arrests over calls for protests during COP27 expose reality of human rights crisis”, <https://www.amnesty.org/en/latest/news/2022/11/egypt-arrests-over-calls-for-protests-during-cop27-expose-reality-of-human-rights-crisis/>

²⁸ Cairo Institute for Human Rights Studies (2022), “COP27 and the Human Rights Crisis in Egypt”, <https://cihrs.org/cop27-and-the-human-rights-crisis-in-egypt/?lang=en> (accessed: 31.05.24). See also: EuroMed Rights and al. (2022), “Rare meeting of Egyptian, International Rights Groups; COP27-linked session should open way to routine consultations”, <https://www.ec-rf.net/rare-meeting-of-egyptian-international-rights-groups/>

²⁹ Amnesty International (2022), “Egypt: Arrests over calls for protests during COP27 expose reality of human rights crisis”, <https://www.amnesty.org/en/latest/news/2022/11/egypt-arrests-over-calls-for-protests-during-cop27-expose-reality-of-human-rights-crisis/>

³⁰ Egyptian Commission for Rights and Freedoms (2022), “Position Paper on Egyptian Security Practices during COP27: Spying on participants, searching phones and monitoring demonstrations, repressive practices have not stopped”, <https://www.ec-rf.net/spying-on-participants-searching-phones-and-monitoring-demonstrations-repressive-practices-have-not-stopped/>

³¹ Egyptian Commission for Rights and Freedoms (2022), “ECRF condemns the detention of Indian environmental activist Ajit Rajagopal and demands his release”, <https://www.ec-rf.net/ecrf-condemns-the-detention-of-indian-environmental-activist-ajit-rajagopal-and-demands-his-release/>

³² Danish Institute Against Torture (2022), “DIGNITY employee denied entry into Egypt”, <https://dignity.dk/en/news/dignity-employee-denied-entry-into-egypt/>

and criminalized peaceful dissent, with authorities using advanced surveillance to monitor public spaces, internet activity, and personal devices.³³ As of February 2024, authorities continued to detain at least 62 prisoners beyond their sentences, citing baseless counterterrorism justifications.³⁴ Most of these prisoners were part of the unfair "UAE94" mass trial, where 69 government critics were convicted in 2013 on charges violating their rights to free expression and association.³⁵ While hosting COP28, the UAE opened a new mass trial against 84 men, including dissidents Mohamed Abdullah Al-Roken, Salim Al-Shahhi, Hadeef Rashid Al-Oweis, Mohamed Al-Mansoori, and Ali Saeed Al-Kindi, who were already due for release after serving baseless sentences, now facing nearly identical new charges.³⁶ Human rights defender Ahmed Mansoor, who is serving a 10-year sentence imposed in 2018 for his activism, is also facing new charges in the new mass trial. Feeling unsafe in this context, most participants did not attempt to organize protests outside the "Blue Zone", and it was reported that the UAE declined permission for some, including one singling out Emirates airline as a polluter.³⁷ Restrictions on freedom of expression in the UAE also include scientific enquiry and journalism, undermining the evidentiary basis for climate action and denying stakeholders access to the information needed to understand the scope of the climate crisis. For example, research undertaken in the run up to COP28 found that air pollution - caused by fossil fuel extraction as well as dust and sand - regularly exceeded WHO maximum safe levels. Interviewees reported that research on air quality and its contributors was near impossible and that there was very little public information about air pollution, its sources, and how at-risk populations, such as the UAE's sizable population of migrant workers, can protect themselves.³⁸

9. Looking towards COP29 in Baku, Azerbaijan, the recent crackdown on journalists and activists in the country indicates that the negotiations will be held in a state where violations of human rights and freedoms are a significant concern.³⁹ The arrest of human rights defender Anar Mammadli on 30 April 2024 follows a pattern of abusing criminal law to silence government critics, which includes illegal searches, denying access to lawyers, torture and ill-treatment in detention, and arbitrary

³³ Human Rights Watch (2024), "UAE: Hosting COP28 Amid Longstanding Repression", <https://www.hrw.org/news/2024/01/11/uae-hosting-cop28-amid-longstanding-repression#:~:text=The%20UAE%2C%20one%20of%20the%20imprisonment%20of%20scores%20of%20human> (accessed: 31.05.24).

³⁴ Amnesty International, "United Arab Emirates: Further Information: Sham Mass Trial of 84 Emirati Men Ongoing", 14 February 2024, <https://www.amnesty.org/en/documents/mde25/7716/2024/en/>

³⁵ Human Rights Watch (2024), "UAE: Hosting COP28 Amid Longstanding Repression", <https://www.hrw.org/news/2024/01/11/uae-hosting-cop28-amid-longstanding-repression#:~:text=The%20UAE%2C%20one%20of%20the%20imprisonment%20of%20scores%20of%20human> (accessed: 31.05.24).

³⁶ Office of the High Commissioner on Human Rights (2023), "UAE: UN expert denounces new charges brought against jailed human rights defenders during COP28", <https://www.ohchr.org/en/press-releases/2023/12/uae-un-expert-denounces-new-charges-brought-against-jailed-human-rights> (accessed: 31.05.24).

³⁷ The Guardian (2023), "COP28 officials fail to clarify if protesters are safe to protest in Dubai", <https://www.theguardian.com/environment/2023/dec/03/cop28-officials-fail-to-clarify-whether-protesters-will-be-safe-in-dubai> (accessed: 31.05.24); Context News (2023), "Climate activists say U.N. restricting protest at COP28" [online]. Available at: <https://www.context.news/climate-justice/climate-activists-say-un-restrictions-curbing-protest-at-cop28> (accessed: 31.05.24).

³⁸ Human Rights Watch (2023), "UAE: Fossil Fuels Poison Air: COP28 Host Should Address Air Pollution, Rights Abuses", <https://www.hrw.org/news/2023/12/04/uae-fossil-fuels-poison-air>.

³⁹ Global Voices (2024), "Azerbaijan, COP29 host, shows disregard for climate action and human rights", <https://globalvoices.org/2024/05/01/azerbaijan-cop29-host-shows-disregard-for-climate-action-and-human-rights> (accessed: 3.6.2024).

detentions rubber-stamped by compliant courts.⁴⁰ The authorities target opposition politicians and civil society with arrests, restrictive laws, and co-optation, as well as refusing to register critical independent associations, thereby blocking their access to funding, even from abroad.⁴¹ Severe restrictions are imposed on civic space in Azerbaijan: protests, such as those in the summer of 2023 in Söyüdlü, against projects like the construction of a wastewater reservoir for a gold mine, have been met with brutal suppression by security forces.⁴²

CHALLENGES WITH REGARDS TO RESTRICTIONS OF PROTEST IN THE UNFCCC ‘BLUE ZONE’

10. Unlike in some UN bodies, the UNFCCC allows limited ‘advocacy actions’ during meetings in the Blue Zone, where UN rules apply and not those of the host country. While this practice is better than in other UN spaces, it is not without limitations. Existing limitations on protest content and expression include restrictions on naming countries and corporations, having to pre-share slogans and photographs for approval, restrictions to designated locations and relatively short time duration of protest. During COP28, while it should be recognized that a march was held that has been called the biggest protest yet in the ‘Blue Zone’,⁴³ participants found that UNFCCC limitations on protests were applied more restrictively than in previous years, with negotiations for protests taking longer.⁴⁴ Protest messages calling for an immediate ceasefire in Gaza were barred by the UNFCCC Secretariat.⁴⁵ Amnesty International found that their plans to highlight the link between human rights and climate action in COP host countries, including the UAE and Egypt, resulted in demands for changes from the UNFCCC and UN security, including for text and photos to be removed, with officials stating that the delegation’s security could not be guaranteed if they failed to comply.⁴⁶ The designated protest areas in the conference venue were situated far from the primary political negotiations, were small (which limited the number of people who could join a protest), with the largest space being converted into a water fountain during the meeting, and protests were prohibited in the middle of the day, which is the time when the largest number of people circulate in the venue, citing concerns about heat.⁴⁷ Complex regulations and application procedures detract from the advocacy efforts of those involved: Human Rights Watch stated that a week-long negotiation for a

⁴⁰ Amnesty International (2024), “Azerbaijan: Human rights and climate justice advocate arrested ahead of COP29”, <https://www.amnesty.org/en/latest/news/2024/04/azerbaijan-human-rights-and-climate-justice-advocate-arrested-ahead-of-cop29/>

⁴¹ Amnesty International, “The State of the World’s Human Rights”, April 2024, Azerbaijan section, pp 87-89, <https://www.amnesty.org/en/documents/pol10/7200/2024/en/>

⁴² Heinrich Böll Stiftung, “COP29: Azerbaijan’s Quest for International Legitimacy and Funding”, <https://www.boell.de/en/2024/03/11/cop29-azerbaijans-quest-for-international-legitimacy-and-funding>.

⁴³ Bloomberg (2023), “Climate Activists Hold Biggest COP28 Protest Yet in UN Blue Zone”, <https://www.bloomberg.com/news/articles/2023-12-09/climate-activists-hold-biggest-cop28-protest-yet-in-un-blue-zone?embedded-checkout=true> (accessed 5.6.2024).

⁴⁴ AP News (2023), “Activists say their voices are stifled by increasing rules and restrictions at COP28 climate talks”, <https://apnews.com/article/cop28-climate-youth-activists-restrictions-dubai-91fe6d8a712af484b56336cf9b3f8988> (accessed: 31.05.24).

⁴⁵ Context News (2023), “Climate activists say U.N. restricting protest at COP28” [online]. Available at: <https://www.context.news/climate-justice/climate-activists-say-un-restrictions-curbing-protest-at-cop28> (accessed: 31.05.24).

⁴⁶ The Guardian, “Environmental campaigners filmed, threatened and harassed at Cop28”, 20 December 2023, <https://www.theguardian.com/environment/2023/dec/20/threats-intimidation-creating-climate-of-fear-un-cop-events>.

⁴⁷ Ibid.

demonstration in support of environmental rights defenders hindered them from focusing on their substantive work.⁴⁸

CHALLENGES WITH REGARDS TO THE UNFCCC CODE OF CONDUCT

11. The UNFCCC has stated that it has zero tolerance for harassment of participants. It widely promotes adherence to a Code of Conduct for meetings and provides details of how to report complaints.⁴⁹ However, there is little information on the UNFCCC website regarding the process for investigation should complaints be made, other than a statement that complainants will be “informed as regards the status of the report” and a vague description of the kinds of action that may be taken to implement the UNFCCC Code of Conduct.⁵⁰ This is inadequate to reassure people who wish to report harassment, or other security-related incidents in the “Blue Zone”, that their complaints will be taken seriously and to provide them with information on the progress of their complaint. Thus, it could result in fewer incidents being reported.

CHALLENGES REGARDING THE CORPORATE CAPTURE OF THE UNFCCC

12. In stark contrast to the restrictions on civil society observers in the UNFCCC, there is growing corporate capture of the process. Looking into corporate capture in Glasgow, Sharm El Sheikh, and Dubai, this section illustrates how the UNFCCC’s lack of a comprehensive conflict of interest policy poses increased challenges for defenders demanding climate action.

13. At COP26, at least 503 representatives of the fossil fuel industry attended the UN Climate Conference, a number which rose to 636 at COP27⁵¹ and more than 2,456 at COP28.⁵² Some of this significant increase in recorded numbers of lobbyists is likely attributable to increased transparency requirements for the registration of delegates imposed by the UNFCCC Secretariat after sustained pressure from civil society and Indigenous peoples’ representatives.⁵³ The number of fossil fuel lobbyists at COP28 was nearly 1,000 more than the number of representatives present from the ten most climate-vulnerable nations combined (1509) and more than seven times greater than the number of Indigenous Peoples registered (316).⁵⁴ With nearly 500 carbon capture lobbyists at COP28, the process’s potential to move away from fossil fuel extraction and use is further

⁴⁸ Ibid

⁴⁹ UNFCCC, Code of Conduct for UNFCCC Events, <https://unfccc.int/about-us/code-of-conduct-for-unfccc-conferences-meetings-and-events>

⁵⁰ Ibid

⁵¹ Global Witness (2022), “636 fossil fuel lobbyists granted access to COP27”, <https://www.globalwitness.org/en/campaigns/fossil-gas/636-fossil-fuel-lobbyists-granted-access-cop27/> (accessed at: 31.05.24).

⁵² Global Witness (2023), “Record number of fossil fuel lobbyists granted access to COP28 climate talks”, <https://www.globalwitness.org/en/press-releases/record-number-fossil-fuel-lobbyists-granted-access-cop28-climate-talks/> (accessed: 31.05.24).

⁵³ The Guardian, “Fossil fuel lobbyists will have to identify themselves when registering for Cop28”, 15 June 2023, <https://www.theguardian.com/environment/2023/jun/15/fossil-fuel-lobbyists-will-have-to-identify-themselves-when-registering-for-cop28#:~:text=The%20move%20by%20the%20UN,gas%20lobbyists%20at%20climate%20talks.>

⁵⁴ Global Witness (2023), “Record number of fossil fuel lobbyists granted access to COP28 climate talks” [online]. Available at: <https://www.globalwitness.org/en/press-releases/record-number-fossil-fuel-lobbyists-granted-access-cop28-climate-talks/> (accessed: 31.05.24).

compromised.⁵⁵ Additionally, COP28 was presided over by Sultan Al Jaber, the CEO of ADNOC, the UAE's state-owned oil company, and Azerbaijan is set to follow this example for the upcoming COP29 with Mukhtar Babayev, a former executive of the state oil company Socar for over 25 years, appointed as COP president.⁵⁶ Given that fossil fuels (oil, gas, and coal) are the primary driver of climate change, such affiliations present evident conflicts of interest that undermine the legitimacy of the climate conferences. Following COP28, Al Jaber made clear that he will persist with his oil company's unprecedented investment in expanding oil and gas production, even while orchestrating a global agreement to "transition away" from fossil fuels.⁵⁷ In January 2024, reports indicated that Azerbaijan is forecasted to expand its methane production by one third over the next ten years,⁵⁸ and in April 2024 Azerbaijan's President Ilham Aliyev stated that the country will defend the right of oil and gas rich nations to continue to invest in fossil fuel production.⁵⁹

RECOMMENDATIONS

14. This section highlights key recommendations for the UN Special Rapporteur's consideration in her forthcoming report, regarding ways to strengthen civic space in and around the UNFCCC negotiations, and thereby advance human rights in and through effective climate action:

Recommendations for States

- Parties to the UNFCCC should insist that human rights guarantees are included in all Host Country Agreements (HCAs), including for COP29, and that HCAs are made speedily and easily accessible to all, both by the host countries and proactively by the UNFCCC Secretariat.
- All host countries of UNFCCC-related meetings and events, including Azerbaijan, Brazil, and Germany, respectively the hosts of COP29, COP30, and of the sessions of the Subsidiary Bodies, should guarantee open civic space before, during, and after the events and communicate around the steps taken to do so.
- Azerbaijan must end its crackdown on civil society and journalists and release all those arbitrarily detained.

Recommendations for all UN bodies, including the UNFCCC Secretariat

- Review all relevant procedures for UN meetings and locations to ensure that all participants' rights to freedom of expression and peaceful assembly in 'Blue Zones' are protected and respected, including through removal of impediments to freedom of expression and peaceful assembly in the organization of advocacy actions.

⁵⁵ CIEL (2023), "475 Carbon Capture Lobbyists at COP28 Exposes Fossil Fuels' Grip" [online]. Available at: <https://www.ciel.org/news/475-carbon-capture-lobbyists-at-cop28-exposes-fossil-fuels-grip/> (accessed: 31.05.24).

⁵⁶ COP29.az, "Mukhtar Babayev: COP29 President-Designate", <https://www.cop29.az/en/pages/Mukhtar-Babayev>

⁵⁷ Fiona Harvey (2023), "Cop28 president says his firm will keep investing in oil", <https://www.theguardian.com/environment/2023/dec/15/cop28-president-sultan-al-jaber-says-his-firm-will-keep-investing-in-oil> (accessed: 31.05.24).

⁵⁸ Global Witness, "COP29 host country priming the pumps for a huge hike in gas production", 8 January 2024, <https://www.globalwitness.org/en/press-releases/cop29-host-country-priming-pumps-huge-hike-gas-production/>

⁵⁹ Reuters, "COP29 climate summit host Azerbaijan defends oil and gas investments", 26.4.2024, [https://www.reuters.com/sustainability/climate-energy/cop29-climate-summit-host-azerbaijan-defends-oil-gas-investments-2024-04-26.](https://www.reuters.com/sustainability/climate-energy/cop29-climate-summit-host-azerbaijan-defends-oil-gas-investments-2024-04-26/)

Recommendations for the UNFCCC Secretariat

- Enhance meaningful participation of observers, in particular from the Global South, and for those living with disabilities, by creating an enabling environment for participation in all UNFCCC-related meetings, which includes adequate resources, visa support, interpretation, clear and realistic timelines of accreditation, access to information, accessible infrastructure and platforms, and capacity-building.
- Provide additional information on the process of investigation of complaints into harassment of all kinds or other personal security-related incidents at UNFCCC meetings which should include clear timelines for each stage, and make public the findings of any investigations into reported instances of surveillance and harassment of EHRDs and climate activists at previous or future UNFCCC meetings on at least an annual basis and with due regard to the confidentiality of those affected.
- Liaise with the UN Department of Safety and Security to carry out thorough and comprehensive human rights risk assessments for participants ahead of all UNFCCC meetings and events, including in relation to surveillance, arbitrary arrest and detention, the right to freedom of expression, including expression of sexual orientation and gender identity, and the right to peaceful assembly, put in place adequate measures to minimize risks of reprisals and acts of intimidation, ensure a safe environment for all observers, particularly Indigenous Peoples, EHRDs and climate activists, and communicate these to participating observers.
- Ensure clear human rights principles and protections, including for freedom of expression, association and peaceful assembly are included in host country agreements, and publish these proactively after signature in an easily accessible manner, including those for COP28 and COP29, in line with the conclusions of the 58th session of the UNFCCC Subsidiary Body for Implementation (SBI58), and widely disseminate information about their publication.
- Combat reprisals and acts of intimidation against Indigenous Peoples, EHRDs or climate activists for their engagement with the UNFCCC by publicly denouncing all cases of reprisals, and establishing an accessible focal point for reprisals, with a mandate to collect information, to share it with the UN Assistant Secretary-General for Human Rights and facilitate redress.
- Increase transparency with regards to data about nomination and accreditation of observer constituencies and Parties for UNFCCC meetings, disaggregated as far as possible by constituency affiliation, gender, age, disability status, region and country as well as dates of attendance, given that people often “share” one badge.
- To address conflicts of interest, the UNFCCC Secretariat should put in place a rigorous UNFCCC Accountability Framework to guide engagement with representatives from non-governmental organizations which includes setting a definition of what constitutes a ‘conflict of interest’ (COI); Set protocols that comprise the Accountability Framework, and; Establish COI accountability mechanisms to enforce and monitor the Accountability Framework.