

Frequently Asked Questions on Human Rights and Climate Change

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INTRODUCTION

“The climate crisis is the biggest threat to our survival as a species and is already threatening human rights around the world.”¹ Global temperatures are rising due to greenhouse gas emissions produced by human activity. Increased temperatures are directly contributing to harmful effects, such as droughts, floods, sea-level rises, heatwaves, extreme weather events, loss of biodiversity and the collapse of ecosystems. Climate change poses a threat not just to human life, but to all life. It already affects the human rights of countless persons and the impacts are only getting worse.

The Universal Declaration of Human Rights guarantees that all human beings are entitled to a social and international order in which their rights and freedoms can be fully realized. Climate change threatens this order and the rights and freedoms of all people. Without drastic action now, it will create dreadful harm. International cooperation and solidarity are vital for climate change mitigation and adaptation. It is equally important to approach climate action from a human rights perspective, as “human rights obligations, standards and principles have the potential to inform and strengthen international, regional and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes”.²

The Office of United Nations High Commissioner for Human Rights (OHCHR) advocates for urgent and ambitious climate change mitigation and adaptation, as well as a rights-based approach to climate action. This includes effective international cooperation based on the principles of equity, accountability, inclusiveness, transparency, equality and non-discrimination. State parties to the Paris Agreement have recognized the importance of human rights in climate action, agreeing “to respect, promote and consider their respective obligations on human rights” when taking climate action.³ The present fact sheet aims to promote better policies for both people and the planet by improving understanding of

¹ Secretary-General, “The highest aspiration: a call to action for human rights”, remarks made to the Human Rights Council on 24 February 2020. Available at www.un.org/sg/en/content/sg/statement/2020-02-24/secretary-generals-remarks-the-un-human-rights-council%E2%80%9Cthe-highest-aspiration-call-action-for-human-rights-delivered-scroll-down-for-all-english.

² Human Rights Council resolution 41/21, fourteenth preambular paragraph.

³ FCCC/CP/2015/10/Add.1, annex, eleventh preambular paragraph.

the threat climate change poses to human rights and the resulting human rights obligations of States and other duty bearers.

Q.1 Which human rights are most affected by climate change?

Climate change has a negative impact on the enjoyment of human rights. While it is impossible to enumerate them all here, the Intergovernmental Panel on Climate Change and the Human Rights Council, in particular in its resolution 41/21, highlight that climate change has an impact on, among others, the rights to life, self-determination, development, health, food, water and sanitation, adequate housing and a range of cultural rights.

A snapshot of key climate change impacts on human rights

- The World Health Organization (WHO) indicates that, between 2030 and 2050, climate change is expected to cause approximately 250,000 additional deaths each year from malnutrition, malaria, diarrhoea and heat stress alone.⁴
- According to the Food and Agriculture Organization of the United Nations (FAO), climate change is causing extreme weather, drought, flooding and other disasters, depriving millions of people around the world of a livelihood. The nearly 78 per cent of the world's poor – approximately 800 million people – who live in rural areas, many of whom rely on agriculture, forestry and fisheries for their survival, are particularly affected.⁵
- Without urgent action, climate change impacts could push an additional 100 million people into poverty by 2030, according to the World Bank.⁶

⁴ See WHO, "Climate change and health", 1 February 2018. Available at www.who.int/news-room/fact-sheets/detail/climate-change-and-health.

⁵ See FAO, *Agriculture and Climate Change: Challenges and Opportunities at the Global and Local Level – Collaboration on Climate-Smart Agriculture* (Rome, 2019). Available at www.fao.org/3/CA3204EN/ca3204en.pdf.

⁶ See World Bank, "Rapid, climate-informed development needed to keep climate change from pushing more than 100 million people into poverty by 2030", 8 November 2015. Available at www.worldbank.org/en/news/feature/2015/11/08/rapid-climate-informed-development-needed-to-keep-climate-change-from-pushing-more-than-100-million-people-into-poverty-by-2030.

- More than 2 billion people are currently living in countries with high water stress.⁷ Almost twice as many could be affected by 2050.⁸
- The United Nations Children’s Fund (UNICEF) estimates that, by 2040, one in four children – around 600 million – will be living in areas of extremely high water stress.⁹
- Extreme weather events were one of the main causes of the internal displacement of 28 million people in 2018, according to the Internal Displacement Monitoring Centre.¹⁰

Right to life

According to the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of person. The International Covenant on Civil and Political Rights reiterates the inherent right to life of every human being as a non-derogable and fundamental right that cannot be limited or suspended under any circumstances. This means, at the very least, that States should not only take effective measures against foreseeable and preventable loss of life but also enable people to enjoy a life with dignity.¹¹

According to the Declaration of the United Nations Conference on the Human Environment, “both aspects of man’s environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights – even the right to life itself.”¹² The Human Rights

⁷ See UN-Water, *Sustainable Development Goal 6: Synthesis Report on Water and Sanitation 2018* (Geneva, 2018).

⁸ See Daisy Dune, “World population facing water stress could ‘double’ by 2050 as climate warms”, Carbon Brief, 2 June 2020. Available at www.carbonbrief.org/world-population-facing-water-stress-could-double-by-2050-as-climate-warms. See also Hafsa Ahmed Munia and others, “Future transboundary water stress and its drivers under climate change: a global study”, *Earth’s Future*, vol. 8, No. 7 (2020). Available at <https://agupubs.onlinelibrary.wiley.com/doi/10.1029/2019EF001321>.

⁹ See UNICEF, *Thirsting for a Future: Water and Children in a Changing Climate* (New York, 2017). Available at www.unicef.org/media/49621/file/UNICEF_Thirsting_for_a_Future_ENG.pdf.

¹⁰ Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2019* (Geneva, 2019), p. 5.

¹¹ OHCHR, “Understanding human rights and climate change”, p. 13, submission to the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (2015). Available at www.ohchr.org/Documents/Issues/ClimateChange/COP21.pdf.

¹² *Report of the United Nations Conference on the Human Environment, Stockholm, 5–16 June 1972* (United Nations publication, Sales No. E.73.II.A.14), para. 1.

Committee stated, in its general comment No. 36 (2018) on the right to life, that climate change is one of “the most pressing and serious threats to the ability of present and future generations to enjoy the right to life” (para. 62). It concluded that States parties’ obligations under international environmental law should inform the content of article 6 of the International Covenant on Civil and Political Rights and that the obligation of States parties to respect and ensure the right to life should inform their relevant obligations under international environmental law (ibid.).

In its Fourth Assessment Report, the Intergovernmental Panel on Climate Change predicted an increase in people suffering from death, disease and injury from heatwaves, floods, storms, fires and droughts.¹³ It highlighted the impacts of climate change on the right to life including an increase in hunger and malnutrition; effects on child growth and development; and changes in cardiorespiratory morbidity and mortality. In its Fifth Assessment Report, the Panel further described how increased malnutrition from reduced food production would lead to growing risks of mortality, particularly in sub-Saharan Africa and South Asia.¹⁴

The World Bank found that climate change impacts “could include injuries and deaths due to extreme weather events”.¹⁵ The Intergovernmental Panel on Climate Change noted in 2014 that the potential health impacts of climate change included greater likelihood of injury and death due to more intense heatwaves and fires.¹⁶ For example, the escalation of fires in the Amazon rainforest have resulted in increased risks to local communities and indigenous peoples. WHO indicates that, between 2030 and 2050,

¹³ See Intergovernmental Panel on Climate Change, *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge, United Kingdom, Cambridge University Press, 2007).

¹⁴ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge, United Kingdom, Cambridge University Press, 2014), p. 1056.

¹⁵ World Bank, *Turn Down the Heat: Why a 4°C Warmer World Must Be Avoided* (Washington, D.C., 2012), p. xvii.

¹⁶ Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Geneva, 2014), p. 69.

climate change is expected to cause around 250,000 additional deaths each year from malnutrition, malaria, diarrhoea and heat stress alone. In order to uphold the right to life, States have an obligation to take affirmative action to mitigate climate change and thus prevent foreseeable loss of life (A/HRC/32/23, paras. 34 and 48).

Right to self-determination

Article 1 of the Charter of the United Nations calls for respect of the “self-determination of peoples”. Common article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights states that “all peoples have the right to self-determination”. Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples also upholds this right. This entails freely determining their political status and pursuing their economic, social and cultural development. Important aspects of the right to self-determination include the right of a people not to be deprived of its own means of subsistence and the obligation of States to promote the realization of the right to self-determination, including for people outside their territories.¹⁷ While the right to self-determination is a collective right held by peoples rather than individuals, its realization is an essential condition for the effective enjoyment of individual human rights (see A/HRC/10/61). Climate change not only poses a threat to the lives of individuals but also to their ways of life and livelihoods, and to the survival of entire peoples.

In its 2009 report on the relationship between climate change and human rights, OHCHR stated that climate change endangered the habitability and, in the longer term, the territorial existence of a number of low-lying island States (A/HRC/10/61, para. 40). It also stated that climate change threatened to deprive indigenous peoples of their traditional territories and sources of livelihood. These impacts have implications for the right to self-determination.

According to the Intergovernmental Panel on Climate Change, climate-related risks for small islands include rising sea levels, tropical and

¹⁷ Human Rights Committee, general comment No. 12 (1984) on the right to self-determination, para. 6; Committee on the Elimination of Racial Discrimination, general recommendation No. 21 (1996) on the right to self-determination.

extratropical cyclones, increasing air and sea surface temperatures, changing rainfall patterns, and loss of adaptive capacity and ecosystem services.¹⁸ This has implications for the right to self-determination, since the peoples living in small island States, as well as indigenous peoples, face increasing challenges to their ability to continue to live on their traditional territory and freely pursue their economic, social and cultural development.¹⁹ The disappearance of a State for climate change-related reasons would give rise to a range of legal questions, including those concerning the status of people inhabiting such territories and the protection provided to them under international law. Human rights law does not provide clear answers regarding the status of populations displaced from sinking island States (A/HRC/10/61, para. 60). However, States have a duty to take action, individually and jointly, to address and avert threats to the right to self-determination, by mitigating climate change.

Right to development

The Charter of the United Nations calls on States to promote “conditions of economic and social progress and development” (Art. 55). The Universal Declaration of Human Rights guarantees that everyone is entitled to a social and international order in which the rights and freedoms therein can be fully realized (art. 28). The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights emphasize that all peoples should “freely determine their political status and freely pursue their economic, social and cultural development” (art. 1). In its Declaration on the Right to Development, the General Assembly describes development as “an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized” (art. 1).

¹⁸ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part B: Regional Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge, United Kingdom, Cambridge University Press, 2014), p. 1616.

¹⁹ OHCHR, “The effects of climate change on the full enjoyment of human rights” (2015), para. 52. Available at https://unfccc.int/files/science/workstreams/the_2013-2015_review/application/pdf/cvf_submission_annex_1_humanrights.pdf.

In the Declaration, the General Assembly underscores that all States and all persons have responsibilities for development and that States should work individually and collectively to create a locally and globally enabling environment for development in which the benefits of development are equitably shared by all. The emphasis on equity in the right to development provides a direct linkage to sustainable development, which is particularly relevant in the climate change context.²⁰ In the 2030 Agenda for Sustainable Development, combating climate change (Goal 13) is recognized as instrumental in sustainable development, highlighting the importance of addressing climate change to secure sustainable, inclusive and equitable development that benefits all persons. The Intergovernmental Panel on Climate Change confirmed that “limiting the effects of climate change is necessary to achieve sustainable development and equity, including poverty eradication.”²¹

In its resolution 70/1 adopting the 2030 Agenda, the General Assembly described climate change as one of the greatest challenges of our time, the adverse impacts of which undermined the ability of all countries to achieve sustainable development (para. 14). The General Assembly underlined that climate change impacts were seriously affecting coastal areas and low-lying coastal countries, including many least developed countries and small island developing States, threatening the survival of societies and the biological support systems of the planet (ibid.).

The Secretary-General and the High Commissioner for Human Rights highlighted in their 2017 report to the Human Rights Council on the right to development (see A/HRC/36/23) that the adverse impacts of climate change posed challenges and obstacles for States, particularly developing countries, to achieve sustainable development. The poorest people in developing countries, who contributed least to climate change, were most vulnerable to its adverse impacts. The Special Rapporteur on the right to development indicated in a 2017 report that climate change directly and indirectly affected the enjoyment of human rights, including the right to

²⁰ Marcos Orellana, “Climate change, sustainable development and the clean development mechanism”, in *Realizing the Right to Development* (United Nations publication, Sales No. E.12.XIV.1), p. 322. Available at www.ohchr.org/Documents/Issues/Development/RTDBook/PartIIIChapter23.pdf.

²¹ Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, p. 17.

development (A/HRC/36/49, para. 20). In order to uphold the right to development, States must limit greenhouse gas emissions to prevent the current and future negative human rights impacts of climate change to the greatest extent possible, including through international cooperation.

Right to health

The human right to health is articulated in the Universal Declaration of Human Rights and in article 12 of the International Covenant on Economic, Social and Cultural Rights. The Covenant provides that States parties must take steps to achieve the full realization of the right, including those necessary for the “improvement of all aspects of environmental and industrial hygiene” (art. 12 (2) (b)). In its general comment No. 14 (2000) on the right to the highest attainable standard of health, the Committee on Economic, Social and Cultural Rights stated that the right to health extended to “the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions ...” (para. 11).

In its analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health, OHCHR found that climate change had far-reaching consequences for the right to health (see A/HRC/32/23). It affects health in three ways, according to a study by the secretariat of the United Nations Framework Convention on Climate Change: directly through weather variables, including heat and storms; indirectly through natural systems, such as disease vectors; and through pathways mediated by human systems, including undernutrition.²²

Climate change is already affecting the future determinants of health, such as clean air, safe drinking water, sufficient food and secure shelter.²³ The main health risks posed by climate change include more intense heatwaves and fires; increased prevalence of food-, water- and vector-borne diseases; increased likelihood of undernutrition; and lost work capacity in vulnerable

²² FCCC/SBSTA/2017/2, para. 15.

²³ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, p. 556.

populations. Additional potential risks include breakdowns in food systems; violent conflict associated with resource scarcity and population movement; and increased poverty. Climate change is expected to widen existing health inequalities, both between and within populations, with its overall health effects likely to be overwhelmingly negative.²⁴

The impacts of a warming climate include deaths, injuries and mental health trauma because of extreme weather events, increases in respiratory and diarrheal infections, cardiovascular diseases, circulatory diseases and allergic respiratory disorders. Catastrophic events may cause damage to facilities that provide health-related services, potentially undermining the capacity to meet the challenges of excess illness and injury.²⁵ Climate change is expected to lead to increasing ill-health, including an increased likelihood of undernutrition resulting from diminished food production in poor regions, especially in low-income developing countries.²⁶

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health has stated that the effects of climate change on the right to health are already alarming, threatening human health and well-being by increasing the causes of morbidity and mortality. Climate change affects both physical and mental health and the well-being of individuals and communities. The Special Rapporteur highlighted the legal and moral obligation of States to stop and mitigate the risks associated with climate change and its adverse consequences on human rights.²⁷ The Special Rapporteur indicated that the failure of the international community to address the health impact of global warming would seriously endanger the lives of millions of people (A/62/214, para. 102).

²⁴ WHO, "WHO submission to the OHCHR on climate change and the right to health", p. 3 (available at www.ohchr.org/Documents/Issues/ClimateChange/Impact/WHO.pdf), and "Climate change and health".

²⁵ World Bank, *Turn Down the Heat*, p. 54.

²⁶ Intergovernmental Panel on Climate Change, "Summary for policymakers", pp. 19–20, in *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, and *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, p. 713.

²⁷ Statement by Dainius Pūras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in a panel discussion on climate change and the right to health, Geneva, 3 March 2016.

Environmental degradation, including climate change, contributes to the loss of biodiversity, creating the conditions for the types of zoonotic diseases that frequently result in viral epidemics. Approximately 60 per cent of all infectious diseases in humans are zoonotic, as are 75 per cent of all emerging infectious diseases. On average, one new infectious disease emerges in humans every four months. Ecosystem integrity underlines human health and development. Human-induced environmental changes – including those brought on by climate change – modify wildlife population structures and reduce biodiversity, resulting in new environmental conditions that favour particular hosts, vectors and/or pathogens. This includes both the risk of zoonosis and that of expanding disease vectors, such as malaria carried by mosquitoes and waterborne illness, that are exacerbated by changing precipitation patterns, flooding and natural disasters, which, inter alia, are induced by climate change. States are legally obliged to take measures to mitigate and adapt to climate change in order to prevent foreseeable harms to human health and fulfil the human right to health.²⁸

Right to food

The right to food is enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Article 11 of the Covenant upholds the fundamental right of everyone to be free from hunger and calls upon States, acting individually and through international cooperation, “to ensure an equitable distribution of world food supplies in relation to need”. The Committee on Economic, Social and Cultural Rights, in its general comment No. 12 (1999) on the right to adequate food, specified the four components of the right to food: availability, accessibility, acceptability and sustainability. The right to food is the right of every individual, alone or in community with others, to have physical and economic access at all times to sufficient, adequate and culturally acceptable food produced and consumed sustainably, preserving access to food for future generations.

²⁸ See OHCHR and UNEP, “Key messages on human rights, the environment and COVID-19” (2020). Available at www.ohchr.org/Documents/Issues/ClimateChange/HR-environment-COVID19.pdf.

The General Assembly has recognized the negative impact of climate change on food security. In its resolution 71/191 on the right to food, it highlighted the importance of designing and implementing actions to reduce the adverse effects of climate change (para. 39). In its resolution 37/10, the Human Rights Council also indicated that climate change was a threat to the right to food.

In its study on discrimination in the context of the right to food, the Human Rights Council Advisory Committee confirmed that climate change would affect the four dimensions of food security, particularly in the poorest regions (A/HRC/16/40, para. 16). The Intergovernmental Panel on Climate Change found that climate change undermined food security by affecting food access, utilization and price stability,²⁹ with disproportionate impacts on those who had contributed the least to global warming and were most vulnerable to its harmful effects.³⁰

The Special Rapporteur on the right to food has indicated that climate change poses a serious threat to the enjoyment of the right to food³¹ and threatens all aspects of food security, with 600 million additional people potentially vulnerable to malnutrition by 2080 (A/70/287, para. 82). According to the Special Rapporteur, “the negative impact of climate change, such as global warming, not only hampers crop, livestock, fisheries and aquaculture productivity, but also influences the frequency of extreme weather events and natural hazards” (A/HRC/37/61, para. 11). In fact, 80 per cent of disasters in recent years have been climate change-related extreme weather events, which have severely hit food insecure countries, including in South Asia, sub-Saharan Africa, the Middle East and Central America (ibid., para. 83). In order to promote and protect the right to food, States are obliged to take measures to mitigate and adapt to climate change, including through international cooperation.

²⁹ Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, p. 69.

³⁰ See A/70/287 and A/HRC/34/48/Add.1.

³¹ See A/HRC/7/5, A/HRC/9/23, A/64/170, A/HRC/16/49, A/67/268, A/HRC/25/57, A/69/275, A/70/287, A/HRC/31/51 and Add.1–2, A/71/282, A/HRC/34/48 and Add.1, A/72/188 and A/HRC/37/61.

Rights to water and sanitation

In its general comment No. 15, the Committee on Economic, Social and Cultural Rights articulated the right to water: “the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” (para. 2). States parties must adopt effective measures to realize the right to water, without discrimination. In its resolution 64/292, the General Assembly recognized the rights to water and sanitation as human rights, noting that those were essential for the full enjoyment of all human rights. The rights to water and sanitation are also referenced in the Convention on the Elimination of All Forms of Discrimination against Women.

The impacts of climate change are often felt through water, as climate change makes water availability less predictable and increases the incidences of flooding that may destroy water points and sanitation facilities and contaminate water sources.³² The Intergovernmental Panel on Climate Change stated that “climate change is projected to reduce renewable surface water and groundwater resources significantly in most dry subtropical regions”, which will “intensify competition for water among agriculture, ecosystems, settlements, industry, and energy production, affecting regional water, energy, and food security”.³³ The competition for increasingly scarce water resources, exacerbated by climate change, will have far-reaching consequences as water shortages have been an essential factor in conflict, violence, displacement and social unrest (see A/HRC/37/30).

Climate change already affects the availability, quality and quantity of water for basic human needs and threatens the enjoyment of the human rights to water and sanitation. The World Bank has reported that a global increase in temperature of 2°C may result in 1 to 2 billion people no longer having enough water.³⁴ More than 2 billion people live in countries already

³² See UN-Water and UNESCO, *The United Nations World Water Development Report 2020: Water and Climate Change* (Paris, 2020); A/HRC/10/61.

³³ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, p. 232.

³⁴ World Bank, *World Development Report 2010: Development and Climate Change* (Washington, D.C., 2010), p. 5.

experiencing high water stress. Almost twice as many are predicted to do so by 2050.

According to the Special Rapporteur on the human rights to safe drinking water and sanitation, climate change has a number of harmful effects on humans and the environment because of its impact on water resources.³⁵ Climate change impacts include heightened vulnerability to climatic events, including cyclones and drought, and increased frequency of extreme weather events, water scarcity, saltwater intrusions and sea-level rise.

The Special Rapporteur has highlighted that States have obligations to address the harmful impacts of climate change on human rights “whether or not a causal chain can be established between particular emissions of greenhouse gases and particular effects of climate change” (A/HRC/24/44/Add.2, para. 49). Furthermore, industrialized countries that have historically contributed most to global warming have heightened responsibilities to prevent and remedy climate change impacts on the enjoyment of human rights of both individuals and communities (ibid., para. 50). States are thus legally obliged to take climate action in order to safeguard the rights to water and sanitation.

Right to adequate housing

Article 11 of the International Covenant on Economic, Social and Cultural Rights establishes that all persons are entitled to an adequate standard of living for themselves and their families, including adequate housing. In its general comment No. 4 (1991) on the right to adequate housing, the Committee on Economic, Social and Cultural Rights elaborated on the scope and application of the right to housing, stating that that right was central to the enjoyment of all economic, social and cultural rights. As with all other economic, social and cultural rights, States are obligated to mobilize the maximum available resources for the progressive realization of the right to housing for all persons. To achieve the full realization of this right, States are required to guarantee the essential factors of adequacy,

³⁵ Special Rapporteur on the human rights to safe drinking water and sanitation, “Climate change and the human rights to water and sanitation: position paper” (undated). Available at www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf.

which are legal security of tenure, availability, affordability, habitability, accessibility, location and cultural adequacy.

The Human Rights Council has emphasized, including in its resolution 37/4, “that the adverse effects of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights, inter alia, the right to adequate housing as a component of the right to an adequate standard of living”.³⁶

Climate change threatens the right to adequate housing and its essential elements in numerous ways. Extreme weather events can destroy homes, displacing millions of people. Drought, erosion and flooding can gradually render territories uninhabitable, resulting in displacement and migration. Urban housing will be at a high degree of risk with a rise in temperature of 2°C by 2080–2100, as poor quality and inappropriately located urban housing is often vulnerable to extreme weather events.³⁷ Sea-level rise threatens the land upon which houses in low-lying areas are situated and is expected to continue for centuries – even if the global mean temperature is stabilized.³⁸ Lowland areas in coastal cities are usually more at risk of flooding, particularly when there is inadequate drainage infrastructure.³⁹

Those living in homelessness or lacking access to resilient or secure housing are the most adversely affected by the climate crisis as they often live in areas that are vulnerable to floods, hurricanes and cyclones, storm surges, mudslides, earthquakes and tsunamis. States taking disaster risk management measures often fail to consider their effects on vulnerable communities and their right to housing.

The impacts of climate change on the right to housing have been addressed in several reports⁴⁰ by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right

³⁶ Human Rights Council resolutions 31/9 and 37/4, eighth preambular paragraphs.

³⁷ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, pp. 559 and 562.

³⁸ Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, p. 13.

³⁹ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, p. 555.

⁴⁰ See A/HRC/7/16, A/64/255, A/63/275, A/65/261, A/66/270, A/HRC/19/53, A/HRC/22/46, A/HRC/31/54 and A/HRC/37/53.

to non-discrimination in this context, including in a 2019 report on the right to housing of indigenous peoples (see A/74/183). The Special Rapporteur notes that climate change-induced extreme weather events pose risks to the right to adequate housing in urban settlements, smaller settlements and small islands. The Special Rapporteur has cautioned that the implications of climate change will be severe, “particularly for low-income groups and those living in countries that lack the resources, infrastructure, and capacity necessary to protect their populations” (A/64/255, para. 65).

Particularly serious threats to the right to housing are displacements caused by climate change and forced evictions often without providing affected residents with secure, affordable and well-serviced alternative housing, which are frequently carried out with the official goal of protecting residents from risks related to climate change. The Special Rapporteur highlights the need for industrialized countries to lead in reducing emissions levels, underscoring the need to support developing countries in pursuing low-carbon development paths (A/64/255, para. 70).

A large amount of construction will be required in low-income countries if target 11.1 of the Sustainable Development Goals, regarding housing, is to be achieved.⁴¹ States individually and the international community as a whole must respond urgently to the climate crisis, while also ensuring access to sustainable housing, prioritizing those most in need. In order to uphold the right to adequate housing, States thus have a positive obligation to take measures to mitigate and adapt to climate change both domestically and internationally.

The Guidelines for the Implementation of the Right to Adequate Housing (see the box below) are an example of the guidance produced by human rights mechanisms on rights-based approaches to climate change.

⁴¹ Target 11.1: by 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.

Guidelines for the Implementation of the Right to Adequate Housing

The Guidelines for the Implementation of the Right to Adequate Housing provide guidance to States on how to uphold the right to adequate housing while taking measures to mitigate and adapt to climate change (A/HRC/43/43, guideline No. 13). They urge States to:

- (a) Integrate the right to adequate housing into strategies for the adaptation to and mitigation of climate change, as well as in strategies for addressing climate change displacement. States should ensure that these strategies do not undermine or impede the realization of the right to adequate housing;
- (b) Give priority to adaptation measures to preserve existing communities that are particularly vulnerable to the effects of climate change and climate change-related disasters, such as those living on or near waterways and shorelines. In that regard, States must consult with residents to identify the measures needed for their protection. Such measures may include ensuring that communities are able to retain technical experts, installing protective infrastructure, moving some households to safer sites within the community and ensuring that adequate resources are available for the implementation of such measures;
- (c) Conduct thorough analyses of anticipated climate displacement and identify communities at risk and possible relocation sites. Where relocation is deemed necessary or chosen by the community, it should be implemented in a manner consistent with the basic principles and guidelines on development-based evictions and displacement (see A/HRC/4/18, annex I);
- (d) Work with affected communities when developing and promoting environmentally sound housing construction and maintenance to address the effects of climate change while ensuring the right to housing. The particular vulnerability of indigenous peoples to climate change must be recognized and all necessary support should be provided to enable indigenous peoples to develop their own responses. Forests and conservation areas must be protected in a manner that fully respects the rights of indigenous peoples to their lands and resources and to their traditional and environmentally sustainable practices in housing.

Cultural rights

Article 15 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications. The Covenant recognizes the right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author and to enjoy the freedom indispensable for scientific research and creative activity. The United Nations Declaration on the Rights of Indigenous Peoples establishes, in article 31, that “indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines [and] knowledge of the properties of fauna and flora”. Article 7 (5) of the Paris Agreement outlines that adaptation action “should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems ...”.

Climate change poses a threat to the enjoyment of cultural rights, including to cultural practices, meaningful spaces for cultural interactions and ways of life. The Special Rapporteur in the field of cultural rights has highlighted how natural spaces face grave risks from climate change, such as the erosion of waterfronts or fires owing to droughts. The Special Rapporteur has underscored the need for an effective and timely response to the climate emergency for affected persons to continue enjoying the cultural rights related to these spaces (A/74/255, para. 69). Effective responses to climate change will require changes in production, consumption and mobility practices – to name but a few – and in ways of life all over the world, for which culture, science and creativity and the exercise of cultural rights will be pivotal.

In a statement on the preliminary findings and observations of a visit to Tuvalu in 2019, the Special Rapporteur extensively referenced the

impacts of climate change on culture and cultural rights.⁴² The Special Rapporteur noted that many world heritage sites were threatened by rising sea levels. In this connection, the statement described climate change as an urgent human rights question and “threat multiplier”, which magnified existing threats to heritage and which must be understood and responded to as such. The Special Rapporteur highlighted that cultural heritage “represents a powerful resource for addressing the challenges caused by climate change” (A/HRC/40/53, para. 70).

In her annual report submitted to the General Assembly at its seventy-fifth session, the Special Rapporteur defined the climate emergency as “an existential threat to life, to human rights and human cultures”. The Special Rapporteur pointed out that cultural rights in many cases risked being wiped out by climate change, highlighting the need for climate change initiatives to adequately acknowledge that. The Special Rapporteur stressed the need for sweeping cultural change “to alter the trajectory of catastrophic climate change”. The Special Rapporteur noted that culture shaped climate change, which in turn transformed culture, and called for the “integration of environmental, cultural and human rights perspectives on climate change, in policy and expertise,” at all levels (see A/75/298).

The Committee on Economic, Social and Cultural Rights has expressed concern about how climate change negatively affects the enjoyment of the Covenant rights by indigenous peoples.⁴³ The Special Rapporteur on the rights of indigenous peoples has highlighted that traditional knowledge, including the knowledge of indigenous peoples, provides an important foundation for climate change adaptation and mitigation policies (see A/HRC/36/46). The Local Communities and Indigenous Peoples Platform, established by the Conference of the Parties to the United Nations Framework Convention on Climate Change, recognizes the rights of indigenous peoples, including over their traditional knowledge, as both threatened by climate change and as a reservoir of potential climate change

⁴² See “Preliminary findings and observations on visit to Tuvalu by UN Special Rapporteur in the field of cultural rights, Karima Bennoune”, 24 September 2019. Available at www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=25035&LangID=E.

⁴³ See, e.g., E/C.12/CAN/CO/6, paras. 53–54; E/C.12/FIN/CO/6, para. 9. See also A/74/255, para. 69.

adaptation and mitigation measures.⁴⁴ The International Indigenous Peoples' Forum on Climate Change has highlighted the importance of respecting indigenous peoples' traditional knowledge in the context of efforts to address climate change, including its causes, adaptation and mitigation. In order to protect and promote cultural rights, States are legally obliged to take measures to mitigate and adapt to climate change and thus prevent foreseeable threats to these rights.

Q.2 Which groups and individuals are most affected by climate change?

The negative impacts of climate change are disproportionately felt by persons and communities who are already in a disadvantageous situation owing to a number of factors. According to the Intergovernmental Panel on Climate Change, “people who are socially, economically, politically, institutionally or otherwise marginalized are especially vulnerable to climate change and also to some adaptation and mitigation responses.”⁴⁵ For example, persons, communities and States that occupy and rely upon low-lying coastal lands, tundra and Arctic ice, arid lands and other delicate ecosystems for their housing and subsistence face the greatest threats from climate change.

Preventing and responding to the effects of climate change must therefore be a participatory process that empowers everyone, enabling them to act as agents of change. This section describes how climate change affects indigenous peoples, women, children, migrants and persons with disabilities differently. It is, as such, a non-exhaustive analysis of some of the groups and individuals disproportionately affected by climate change. Others that may be particularly exposed to climate change impacts include, inter alia, older persons, lesbian, gay, bisexual, transgender and intersex persons, the poor and ethnic and racial minorities.

⁴⁴ See <https://unfccc.int/LCIPP>.

⁴⁵ Intergovernmental Panel on Climate Change, *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects*, p. 50.

Indigenous peoples

The United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) articulate the specific rights of indigenous peoples. The Declaration recognizes in its preamble “that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment”. Article 32 of the Declaration requires States to provide effective mechanisms for just and fair redress for activities affecting indigenous peoples’ lands or territories and other resources, and to take appropriate measures “to mitigate adverse environmental, economic, social, cultural or spiritual impact”. Article 29 of the Declaration addresses the rights of indigenous peoples to the conservation and protection of the environment and of their lands or territories and resources. The Declaration further calls for free, prior and informed consent regarding measures that affect indigenous peoples’ rights, which includes actions related to climate change mitigation and adaptation measures (see also A/HRC/39/62).

Climate change disproportionately affects indigenous peoples. For instance, “the displacement of indigenous peoples and the potential loss of their traditional lands, territories and resources threaten their cultural survival, traditional livelihoods and right to self-determination” (A/HRC/38/21, para. 19). Indigenous peoples have long lived in fragile ecosystems that are uniquely sensitive to the effects of a changing climate. Extreme weather events, drought, melting ice, sea-level rise and species shifts are seriously affecting indigenous territories, increasing the vulnerability of indigenous peoples. They are also directly affected by environmental destruction, such as deforestation, land degradation, land grabbing and excessive exploitation of mineral resources, which are having a negative impact on the local economies, subsistence lifestyles, food security, access to water and cultures of indigenous peoples, who often rely heavily on land and natural resources to meet their livelihood needs (see also A/HRC/36/46).

The 2030 Agenda and the Paris Agreement have recognized the unique and important role of indigenous peoples as partners in achieving their goals. The Indigenous Peoples Major Group for Sustainable Development has become a platform for indigenous peoples to engage in relation to the 2030 Agenda. The Paris Agreement calls for parties to “respect, promote

and consider their respective obligations on human rights ... [including] the rights of ... indigenous peoples” and specifically mentions the use of indigenous peoples’ traditional knowledge in adaptation strategies.⁴⁶

Indigenous peoples are increasingly recognized as invaluable actors in the context of responding and adapting to environmental pressures. The Intergovernmental Panel on Climate Change has pointed out that “the effectiveness of decision-making and governance is enhanced by the involvement of local stakeholders (particularly those most vulnerable to climate change, including indigenous peoples) in the selection, evaluation, implementation and monitoring of policy instruments for land-based climate change adaptation and mitigation.”⁴⁷ It further acknowledges the important contribution that indigenous peoples’ traditional knowledge and practices can play in increasing the effectiveness of adaptation, “including indigenous peoples’ holistic view of community and environment, [which] are a major resource for adapting to climate change”.⁴⁸

With a view to ensure the effective participation of indigenous peoples in climate change discussions, the Local Communities and Indigenous Peoples Platform was established under the United Nations Framework Convention on Climate Change. The Platform serves to strengthen the knowledge and practices of indigenous peoples to address climate change, to facilitate the exchange of experience and sharing of best practices on mitigation and adaptation and to enhance the engagement of local communities and indigenous peoples under the Convention.

Women

The Convention on the Elimination of All Forms of Discrimination against Women protects the rights of women⁴⁹ and prohibits all forms of discrimination against them. The Convention aims to ensure women’s

⁴⁶ See eleventh preambular paragraph and article 7 (5).

⁴⁷ Intergovernmental Panel on Climate Change, “Summary for policymakers”, in *Climate Change and Land: an IPCC Special Report on Climate Change, Desertification, Land Degradation, Sustainable Land Management, Food Security, and Greenhouse Gas Fluxes in Terrestrial Ecosystems* (2020), p. 30.

⁴⁸ Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report*, p. 19.

⁴⁹ In the present publication, references to women are to be understood as referring to women and girls.

participation at a level equal to that of men in political, social, economic and cultural development. In its general recommendation No. 37 (2018) on the gender-related dimensions of disaster risk reduction in the context of climate change, the Committee on the Elimination of Discrimination against Women underscored the urgency of mitigating climate change and highlighted the steps that needed to be taken to achieve gender equality in order to reinforce the resilience of individuals and communities to climate change and disasters.

OHCHR found in its study on gender-responsive climate action for the full and effective enjoyment of the rights of women that women's unique knowledge and experience, particularly at the local level, in areas such as agriculture, conservation and the management of natural resources means that the inclusion of women with diverse backgrounds in climate action and decision-making processes was critical for meaningful, effective and informed action that respected women's rights (see A/HRC/41/26). In the study, OHCHR found that climate change affected women, men, boys and girls in different ways. As regards climate change, entrenched and systemic discrimination can lead to gender-differentiated impacts on health, food security, livelihoods and human mobility, among other things. Intersectional forms of discrimination can further increase the vulnerability of some women to climate change, while the exclusion of women from climate action limits its effectiveness and further increases climate harms (ibid.). Women are also at risk of gender-based violence, which may become more acute following a national disaster. Policies and programmes must therefore address existing and new risk factors for gender-based violence against women within the context of disaster risk reduction and climate change.

Intensified threats to land, water, species and livelihoods profoundly affect women in rural areas, who work the land or rely on marine and terrestrial ecosystems for their families' subsistence. The economic stress induced by disasters and climate change can lead to cases of child, early and forced marriages, as a coping strategy. Another coping strategy is migration, for example that of rural women in peasant farming communities in areas prone to droughts – which are exacerbated by climate change, and from coastal areas – which are threatened by sea-level rise and extreme weather events. At the same time, rural women have much to contribute to climate

change adaptation and mitigation. The local traditional knowledge held by rural women is invaluable in this respect. They observe changes in the environment and know how to respond to such changes through different adaptive practices in crop selection, planting, harvesting, land conservation techniques and careful management of water resources.

In its decision 18/CP.20, the Conference of the Parties to the United Nations Framework Convention on Climate Change established the Lima work programme on gender and emphasized “the need for gender mainstreaming through all relevant targets and goals in activities under the Convention as an important contribution to increase their effectiveness”. The Paris Agreement affirms the importance of greater gender inclusiveness and equality in climate action and policy in its article 7 (5): “Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach”. The gender-specific impacts of climate change must be considered in the planning of mitigation and adaptation efforts, including by ensuring gender-sensitive investments in programmes for adaptation, mitigation, technology transfer and capacity-building.

The 2030 Agenda notes the impacts climate change can have on women. Just like human rights, the Sustainable Development Goals are interlinked and Goal 5 (gender equality) must be taken into consideration in the attainment of all other goals, including Goal 13. The absence of an explicit reference to women and gender equality in some goals, particularly those most relevant to climate action (such as Goals 13, 7, 12, 14 and 15), does not exclude the need for efforts to be made to achieve these goals in a gender-responsive manner.

Children

The Convention on the Rights of the Child states that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. It establishes children’s rights as inalienable and universal human rights and it is the most widely ratified human rights instrument in the world. In its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, the Committee

on the Rights of the Child described climate change as one of the biggest threats to children's health.

Children are disproportionately impacted by climate change due to their unique metabolism, as well as their physiology and developmental needs. In a report on the relationship between children's rights and environmental protection, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment concluded that no group was more vulnerable to environmental harm than children (A/HRC/37/58, para. 15). The Special Rapporteur stressed that "climate change and the loss of biodiversity threaten to cause long-term effects that will blight children's lives for years to come" (ibid., para. 69). In particular, climate change may seriously affect children's enjoyment of the highest attainable standard of physical and mental health, access to education, adequate food, adequate housing, safe drinking water and sanitation – with children in developing countries often sustaining its worst effects.

In its study on the relationship between climate change and the full and effective enjoyment of the rights of the child, OHCHR concluded that all children were exceptionally vulnerable to the negative impacts of climate change, with the youngest children being most at risk (see A/HRC/35/13). In the study, OHCHR outlined the key requirements of a child rights-based approach, including ambitious mitigation measures to minimize the future negative impacts of climate change on children, as well as adaptation measures that focused on protecting the most vulnerable children. OHCHR highlighted the need for mitigation and adaptation actions that were the product of participatory, evidence-based decision-making processes that took into account the ideas and best interests of children as expressed by children themselves.

OHCHR also found that climate litigation by today's children had the potential to safeguard the interests of future generations, and that a legal basis for such litigation existed in many countries. Children and their representatives have already engaged in environmental litigation in a wide

range of countries, including the Philippines,⁵⁰ Nigeria⁵¹ and the United States of America.⁵² During the 2019 Climate Action Summit convened by the Secretary-General, 16 children from 12 countries submitted a landmark petition to the Committee on the Rights of the Child to protest lack of government action on the climate crisis.⁵³ Children and young persons also play an important role in the climate justice movement, including the Fridays for Future, Extinction Rebellion and Sunrise Movement initiatives.

Migrants and internally displaced persons

International human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families oblige States to respect, protect and fulfil all human rights for all people without discrimination, including all migrants⁵⁴ under their jurisdiction or effective control, irrespective of their migratory status. The Paris Agreement explicitly acknowledges the rights of all persons in vulnerable situations, including migrants, calling upon States to respect, promote and consider human rights when taking climate action.⁵⁵

⁵⁰ See Supreme Court of the Philippines, *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*, decision of 30 July 1993.

⁵¹ See Federal High Court of Nigeria, *Gbemre v. Shell Petroleum Nigeria Limited and Others*, judgment of 14 November 2005.

⁵² See United States Court of Appeals for the Ninth Circuit, *Juliana et al. v. United States of America et al*, opinion of 17 January 2020.

⁵³ The petition is available at <https://earthjustice.org/blog/2019-september/greta-thunberg-young-people-petition-UN-human-rights-climate-change>.

⁵⁴ There is no universal and legal definition of a “migrant”. In accordance with the mandate of the High Commissioner for Human Rights to promote and protect the human rights of all persons, OHCHR has described an international migrant as “any person who is outside a State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence” (OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014), p. 4). “Migrant” is thereby used as a neutral term to describe a group of people who have in common a lack of citizenship attachment to their host country. It is without prejudice to the protection regimes that exist under international law for specific legal categories of people, such as refugees, stateless persons, trafficked persons and migrant workers.

⁵⁵ OHCHR, “Key messages on human rights, climate change and migration”. Available at www.ohchr.org/Documents/Issues/ClimateChange/materials/KMMigration.pdf.

In its resolution 64/162, the General Assembly recognized that natural disasters were a cause of internal displacement and expressed concern about factors that were expected to exacerbate the impact of natural hazards and climate-related slow-onset events. The Human Rights Council noted, in its resolution 35/20, “the urgency of protecting and promoting human rights of migrants and persons displaced across international borders, in the context of the adverse impact of climate change” (para. 7).

The Global Compact for Safe, Orderly and Regular Migration invites States to develop mechanisms for disaster risk reduction and climate change mitigation and adaptation to both sudden and slow-onset events, and to address the needs of the people whose lives and rights are most at risk from these threats.

Human mobility can be the result of both sudden-onset events and slow-onset processes or the interaction between them. Measures to respond to the adverse effects of climate change, such as climate change mitigation and adaptation, can also directly or indirectly influence population movements. When living conditions and the enjoyment of human rights, such as the right to life, food, water and health, are affected by weather-related hazards, such as desertification, environmental degradation or sea-level rise, people may be forced or compelled to migrate abroad or within their own countries. The relationship between climate change and human mobility is complex. Most movement related to environmental factors is not entirely forced or voluntary, but falls somewhere on a continuum between the two. Nevertheless, it is clear that climate change substantially contributes to human rights harms and related human movement.

Most of those who move in the context of climate change are predicted to remain within a country. Extreme weather events were one of the main causes of the internal displacement of 28 million people in 2018. Internal displacement may be followed by cross-border movement, especially when people are unable to secure decent work and access to essential services. Migrant workers and members of their families may be forced to move because they no longer have access to basic necessities, such as water, food security, employment and livelihoods. This may increase the risk of experiencing gross human rights violations, including trafficking in persons, forced labour and sexual and gender-based violence. Women migrants face a heightened risk of vulnerabilities, including trafficking

in persons for sexual exploitation, and other forms of discrimination in transit, in camps, at borders and in destination countries. It is therefore crucial to integrate human mobility-related considerations and gender dimensions into disaster risk reduction and climate change policies.

The negative impacts of climate change can reduce adaptive capacity and affect a person's ability to move, the freedom with which they choose to do so and their vulnerability before, during and after migration. Vulnerability may occur throughout migration and regardless of whether movement was "voluntary". Although climate change poses unique threats, the risks faced by persons moving because of climate change are similar to those faced by all migrants in vulnerable situations who are unable to have access to safe, affordable and regular migration pathways. Persons moving in response to climate change can be made more vulnerable through increasing barriers to international migration (see A/HRC/38/21).

Human rights protection gaps for persons crossing borders in response to climate change result from, among others, a series of legal and policy gaps. Governments and other stakeholders can take a series of measures to mitigate these protection gaps, including more ambitious climate action and safe, regular, dignified and accessible pathways for human mobility (see A/HRC/38/21). Better data on cross-border movement related to climate change would further both the understanding and recognition of the phenomena.⁵⁶

The Special Rapporteur on the human rights of migrants stressed that, while no place is protected from the impacts of climate change, already fragile environments are most vulnerable. This includes, in particular, mega deltas, small island developing States, low-lying coastal zones, arid areas, polar regions and places affected by sudden and extreme natural disasters. In this context, the Special Rapporteur called on States to collectively recognize that migration was part of the solution to global environmental challenges, stressing the need for coordinated international cooperation in this regard (see A/67/299).

⁵⁶ See the report on the slow-onset effects of climate change and human rights protection for cross-border migrants, which is available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Pages/ListReports.aspx.

Persons with disabilities

The Convention on the Rights of Persons with Disabilities reaffirms that all persons with disabilities are entitled to enjoy all human rights and fundamental freedoms on an equal basis with others. It offers a guiding framework for actions related to persons with disabilities, including the building of inclusive climate change responses and resilience.

Persons with disabilities represent an estimated 1 billion people worldwide. They encompass a diverse population of people with different individual conditions and support requirements who face significant attitudinal barriers – such as stereotypes, stigma and prejudices – and environmental barriers, which hinder their full and effective participation in society on an equal basis with others.

In its study on the promotion and protection of the rights of persons with disabilities in the context of climate change, OHCHR found that persons with disabilities were at greater risk from the adverse impacts of climate change due to a variety of social and economic factors (see A/HRC/44/30). Poverty, discrimination and stigma are key components that affect the exposure of persons with disabilities to the impacts of climate change. Intersecting factors related to gender, age, ethnicity, geography, migration, religion and sex can subject some persons with disabilities to higher risks of experiencing the adverse effects of climate change, including impacts on their health, food security, housing, access to water and sanitation, livelihoods and mobility (ibid., para. 58).

In an emergency, persons with disabilities sustain disproportionately higher rates of morbidity and mortality, and at the same time are among those least able to access emergency support. Sudden-onset natural disasters and slow-onset events can seriously affect the access of persons with disabilities to food and nutrition, safe drinking water and sanitation, health-care services and medicines, education and training, adequate housing and access to decent work in the open labour market.

The majority of persons with disabilities live in conditions of poverty: they experience lower levels of income and employment and higher levels of expenditure related to their disabilities. Social protection and poverty reduction programmes commonly overlook their requirements and often build in disincentives for persons with disabilities to enter the labour

market. As a result, compared with others, they are exposed to increased risks in the face of climate change and disasters and are rendered less resilient. The Intergovernmental Panel on Climate Change foresees that the poorest people will continue to experience the worst effects of climate change through lost income and livelihood opportunities, displacement, hunger and adverse impacts on their health.

Article 4 (3) of the Convention on the Rights of Persons with Disabilities mandates the active involvement and close consultation of persons with disabilities and their representative organizations in all matters related to them. Furthermore, article 33 (3) mandates the involvement and participation of civil society, in particular persons with disabilities and their representative organizations, in monitoring processes.⁵⁷ As one of the groups most affected by climate change, persons with disabilities, through their representative organizations, must be actively included in shaping climate action. Their participation must be ensured across all phases of decision-making and in the planning, implementation and monitoring of strategies, awareness-raising, resource allocation, research and data collection and disaggregation, to secure targeted climate action that responds to the lived experiences of persons with disabilities and strengthens their resilience against the adverse impacts of climate change.

Q.3 Who are the rights holders and duty bearers in relation to climate change?

Rights holders

Human rights are universal and based on the inherent dignity of all human beings. They are equal, indivisible, interrelated and interdependent, and cannot be waived or taken away. Human beings are rights holders. Individuals and peoples, particularly those most affected by climate change, are entitled to protection from its negative impacts.

⁵⁷ Committee on the Rights of Persons with Disabilities, general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

Climate action should be consistent with human rights obligations, standards and principles and protect the rights of all persons, particularly those most affected by climate change. Often those who have contributed the least to climate change unjustly and disproportionately suffer its greatest harms. These rights holders must be meaningful participants in and primary beneficiaries of climate action and they must have access to effective remedies.

Duty bearers

The Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Declaration on the Right to Development all make clear that States have human rights obligations that require both individual and collective action, including through international cooperation. With regard to human rights, States are the primary duty bearers. They must seek to respect, protect and fulfil the human rights of all persons. In addition, the Declaration on the Right to Development emphasizes that we all have a responsibility for development – individually and collectively. The Guiding Principles on Business and Human Rights⁵⁸ affirm that businesses also have human rights responsibilities. For more information about business responsibilities, see [question 5 below](#).

Human rights instruments make it clear that all responsible actors should be held accountable for the negative impacts of their activities and share responsibility for remedying these impacts. This includes addressing the negative impacts of climate change.⁵⁹ States, as primary duty bearers, have a positive obligation to mitigate climate change and ensure that all persons have the necessary capacity to adapt to its consequences. The responsibility of States to respect, protect and fulfil all human rights for all, in accordance with Articles 55 and 56 of the Charter of the United Nations, also applies to populations outside their territories.

⁵⁸ See A/HRC/17/31, annex.

⁵⁹ The legal obligations of States and businesses to address climate change are the subject of growing consensus and analysis. See, e.g., the Oslo Principles on Global Climate Change Obligations (2015). Available at <https://globaljustice.yale.edu/sites/default/files/files/OsloPrinciples.pdf>.

Q.4 What are the human rights obligations of States related to climate change?

The preamble to the Paris Agreement states that countries should “respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”. States are legally bound to respect, protect, promote, and fulfil all human rights. This includes an obligation to prevent foreseeable harms such as those caused by climate change.

In its “Key messages on human rights and climate change”, OHCHR articulates the core obligations of States related to climate change.

Mitigate climate change and prevent its negative human rights impacts

States have an obligation to respect, protect, fulfil and promote all human rights for all persons without discrimination. Failure to take affirmative measures to prevent human rights harms caused by climate change, including foreseeable long-term harms, breaches this obligation. In its Fifth Assessment Report, the Intergovernmental Panel on Climate Change confirmed that climate change was caused by anthropogenic emissions of greenhouse gases. The negative impacts of climate change will increase exponentially according to the degree of climate change that ultimately takes place and will disproportionately affect people in disadvantaged situations, including women, children, older persons, indigenous peoples, minorities, migrants, rural workers, persons with disabilities and the poor. Therefore, States must act to limit anthropogenic emissions of greenhouse gases (e.g. mitigate climate change), including through regulatory measures, in order to prevent, to the greatest extent possible, the current and future negative human rights impacts of climate change.

Ensure that all persons have the necessary capacity to adapt to climate change

States must ensure that appropriate adaptation measures are taken to protect and fulfil the rights of all persons, particularly those most

endangered by the negative impacts of climate change, such as those living in vulnerable areas (e.g. small islands, riparian and low-lying coastal zones, arid regions and the poles). States must build adaptive capacities in vulnerable communities, including by recognizing the manner in which factors such as discrimination and disparities in education and health affect climate vulnerability, and by devoting adequate resources to the realization of the economic, social and cultural rights of all persons, particularly those facing greatest risk.

Ensure accountability and effective remedy for human rights harms caused by climate change

The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other human rights instruments require States to guarantee effective remedies for human rights violations. Climate change and its impacts, including sea-level rise, extreme weather events and droughts, have already inflicted human rights harms on millions of people. For States and communities on the front line, survival itself is at stake. Those affected, now and in the future, must have access to meaningful remedies, including judicial and other redress mechanisms. The obligations of States in the context of climate change and other environmental harms extend to all rights holders and to harm that occurs both inside and beyond boundaries. States should be accountable to rights holders for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction regardless of where such emissions or their harms actually occur.

Mobilize maximum available resources for sustainable, human rights-based development

Under core human rights treaties, States acting either individually or collectively are obligated to mobilize and allocate the maximum available resources for the progressive realization of economic, social and cultural rights, as well as for the advancement of civil and political rights and the right to development. The failure to adopt reasonable measures to mobilize available resources to prevent foreseeable human rights harms caused by climate change breaches this obligation. The mobilization of resources should complement and not compromise other efforts of Governments to

pursue the full realization of all human rights for all, including the right to development. Innovative measures, such as carbon taxes, with appropriate safeguards to minimize negative impacts on the poor, can be designed to internalize environmental externalities and mobilize additional resources to finance mitigation and adaptation efforts that aim to benefit the poorest and most marginalized.

Cooperate with other States

Climate change is a human rights threat with causes and consequences that cross borders; thus it requires a global response, underpinned by international solidarity. States should share resources, knowledge and technology in order to address climate change. International assistance for climate change mitigation and adaptation should be additional to existing official development assistance commitments. Pursuant to relevant human rights principles, climate assistance should be adequate, effective and transparent, it should be administered through participatory, accountable and non-discriminatory processes, and it should be targeted towards persons, groups and peoples most in need. States should engage in cooperative efforts to respond to climate-related displacement and migration and to address climate-related conflicts and security risks.

Ensure equity in climate action

The Rio Declaration on Environment and Development, the Vienna Declaration and Programme of Action and “The future we want” all call for the right to development, which is articulated in the Declaration on the Right to Development, to be fulfilled so as to meet equitably the developmental and environmental needs of present and future generations. The United Nations Framework Convention on Climate Change calls on States to protect future generations and to take action on climate change “on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities”. Equity in climate action requires that efforts to mitigate and adapt to the impacts of climate change should benefit people in developing countries, indigenous peoples, people in vulnerable situations and future generations.

Guarantee that everyone enjoys the benefits of science and its applications

The International Covenant on Economic, Social and Cultural Rights states that everyone has the right to enjoy the benefits of science and its applications (art. 15). States should actively support the development, dissemination and transfer of new climate mitigation and adaptation technologies, including technologies for sustainable production and consumption. Environmentally clean and sound technologies should be accessibly priced, the cost of their development should be equitably shared and their benefits should be fairly distributed among and within countries. Technology transfers between States should ensure a just, comprehensive and effective international response to climate change. States should also take steps to ensure that global intellectual property regimes do not obstruct the dissemination and transfer of mitigation and adaptation technologies, while at the same time ensuring that these regimes create appropriate incentives to help meet sustainable development objectives. The right of indigenous peoples to participate in decision-making related to and benefit from the use of their knowledge, innovations and practices should be protected.

Protect human rights from business harms

The Guiding Principles on Business and Human Rights affirm that States have an obligation to protect against human rights abuse within their territory and/or jurisdiction by third parties, including by businesses. States must take adequate measures through effective policies, legislation, regulations and adjudication to protect all persons from human rights harms involving businesses, including through their contributions to climate change. States must also ensure that their own activities, including activities conducted in partnership with the private sector, respect and protect human rights; and where such harms do occur to ensure effective remedies. For more information about business responsibilities, see [question 5](#) below.

Guarantee equality and non-discrimination

States have committed to guarantee equality and non-discrimination. Efforts to address climate change should not exacerbate inequalities within or between States. For example, indigenous peoples' rights should be fully

reflected in line with the United Nations Declaration on the Rights of Indigenous Peoples and actions likely to affect their rights should not be taken without their free, prior and informed consent. Care should also be taken to ensure that a gender perspective, including efforts to ensure gender equality, is included in all planning for climate change mitigation and adaptation. The rights of children, older persons, minorities, migrants and others in vulnerable situations must be effectively protected. For more information about equality and non-discrimination, see [question 6 below](#).

Ensure meaningful and informed participation

The International Covenant on Civil and Political Rights and other human rights instruments, in particular the Declaration on the Right to Development, guarantee all persons the right to free, active, meaningful and informed participation in development and public affairs. The guidelines for States on the effective implementation of the right to participate in public affairs highlight that participation enables the advancement of all human rights.⁶⁰ The right to free, active, meaningful and informed participation is critical for effective rights-based climate action and requires open and participatory institutions and processes, as well as accurate and transparent measurements of greenhouse gas emissions, climate change and its impacts. States should make early-warning information regarding climate effects and natural disasters available to all sectors of society. Adaptation and mitigation plans should be publicly available, transparently financed and developed in consultation with affected groups. Particular care should be taken to comply with relevant human rights obligations related to participation of persons, groups and peoples in vulnerable situations in decision-making processes and to ensure that adaptation and mitigation efforts do not have adverse effects on those that they should be protecting.

⁶⁰ See www.ohchr.org/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf.

Q.5 What are the responsibilities of businesses related to human rights and climate change?

The Guiding Principles on Business and Human Rights, unanimously endorsed by the Human Rights Council in 2011, affirm that States must protect against human rights abuses by businesses and that business enterprises have a responsibility to respect human rights and to do no harm. They should be accountable for their impacts on the climate and participate responsibly in climate change mitigation and adaptation efforts with full respect for human rights. In situations in which States incorporate private financing or market-based approaches to climate change within the international climate change framework, taking appropriate steps to ensure the compliance of businesses with these responsibilities is especially critical.

The second pillar of the Guiding Principles elaborates on the corporate responsibility to respect human rights, which entails avoiding infringing on the human rights of others and addressing the adverse human rights impacts with which a business enterprise is involved. This responsibility applies to all companies, irrespective of size, sector, operational context, ownership and structure. The scope of the corporate responsibility to respect human rights covers all internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights⁶¹ and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work and its Follow-up. Depending on the circumstances, business enterprises may need to consider additional standards.

The corporate responsibility to respect human rights requires that business enterprises:

- (a) Avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur. This includes the emission of greenhouse gases and toxic wastes, the contamination of air, water and soil, and deforestation – which adversely impact human life and health, ecosystems and biodiversity;

⁶¹ This includes the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols.

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- (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts, including impacts caused by the greenhouse gas and toxic waste emissions of the entire related value chain.

In order to meet their responsibility to respect human rights, business enterprises should:

- (a) Have in place a policy that clearly states their commitment to respect human rights, including by mitigating climate change and the specific measures that will be taken in this regard;
- (b) Have in place a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights, in order to know and show that they respect human rights. Carrying out social and environmental impact assessments should be an integral part of this;
- (c) Have in place processes to enable the remediation of any adverse human rights impacts that they cause or to which they contribute, including through their direct or indirect emissions of greenhouse gases and toxic waste.

Business enterprises have an independent responsibility to respect human rights that applies regardless of whether and how Governments are meeting their own obligations. Corporate responsibility is distinct from issues of legal liability and enforcement, which are defined by the national law provisions in the relevant jurisdictions.

In situations in which a business enterprise contributes or may contribute to an adverse human rights impact, it should cease or prevent its contribution and mitigate any remaining impact to the greatest extent possible. In the case of business contributions to climate change, this may include supporting climate adaptation measures. In situations in which a business enterprise identifies that it has caused or contributed to harm, it should provide for or cooperate in remediation. The Guiding Principles recognize the role of both State-based and non-State-based grievance mechanisms as potential avenues for remedy when human rights harms have occurred.

In addition, in the event that a business has the ability to effect change in relation to another entity's harmful practice, for example because it has a

business relationship with this entity or has control over it, it is expected to exercise leverage to mitigate and/or cease the adverse human rights impact.

In an effort to address climate change, States are expected to raise the bar and incentivize better business environmental performance. Collaboration between States, business enterprises and other stakeholders, for example in the context of multi-stakeholder initiatives, present potentially constructive ways to shape collective responses to climate change.

Q.6 Which key principles of international law apply to climate action in the context of human rights?

A number of often overlapping human rights and environmental law principles guide climate action. Legal principles, as defined by article 31 (3) (c) of the Vienna Convention on the Law of Treaties, are “any relevant rules of international law applicable in the relations between the parties” or “norms commanding that something be realized to the highest degree that is actually or legally possible”.⁶² There are many interlinked and interconnected human rights and environmental law principles that can be applied to climate action. These include – but are not limited to – the principles of equality and non-discrimination, accountability and access to remedy, transparency and inclusiveness, equity and common but differentiated responsibilities and respective capabilities, international cooperation and solidarity and the precautionary principle. The right to participation, as discussed in question 4, is also key.

Equality and non-discrimination

The human rights principles of equality and non-discrimination require action to address and remedy the disproportionate impacts of climate change on the most marginalized and to ensure that climate action benefits persons, groups and peoples in disadvantaged situations and reduces inequalities. For example, indigenous peoples’ rights should be fully respected in all climate action in accordance with the United Nations Declaration on the Rights of Indigenous Peoples. Accordingly,

⁶² See Robert Alexy, “On the structure of legal principles”, *Ratio Juris*, vol. 13, No. 3 (2002).

no action likely to impact their rights must be taken without their free, prior and informed consent. Care should be taken to ensure that a gender perspective, including efforts to ensure gender equality, is included in all planning for climate change mitigation and adaptation, in accordance with the call for gender-responsive climate action in the Paris Agreement. The rights of children, older persons, minorities, migrants and others in vulnerable situations must be effectively protected. Equality and non-discrimination should be placed at the forefront of States' climate action.

Transparency and inclusiveness

“Participation is a basic human right in itself [and] a precondition or catalyst for the realization and enjoyment of other human rights” (A/HRC/23/36, p. 1). Effective rights-based climate action requires participatory and transparent processes. A number of human rights instruments, such as the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the United Nations Declaration on the Rights of Indigenous Peoples, protect the rights to participate and have access to information, especially those of persons, groups and peoples in vulnerable situations. For example, article 18 of the United Nations Declaration on the Rights of Indigenous Peoples states that “indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.” Similarly, under international environmental law, the Rio Declaration on Environment and Development, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) and the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) guarantee participation and access to information in the environmental context. Article 12 of the Paris Agreement specifically establishes the obligation of the parties to cooperate to enhance public participation and access to information.

Precautionary principle

In decision-making, the precautionary principle should be applied in situations in which possibly dangerous, irreversible or catastrophic effects are identified, but scientific evaluation of the potential damage is not sufficiently certain, and in which actions to prevent these potential adverse effects need to be justified. The precautionary principle emphasizes the need to prevent such adverse effects. According to the precautionary principle, uncertainty must not impede the need for urgent action. Article 3 (3) of the United Nations Framework Convention on Climate Change states that “parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures.” The Rio Declaration also calls for States to adopt a precautionary approach to environmental harms and act “where there are threats of serious or irreversible damage” even in the absence of full scientific certainty. As a result, measures should be taken even if there are uncertainties regarding the scope or likelihood of potential damage. In the context of climate change, the only uncertainty remaining is how much more damage it will cause. Under these circumstances, urgent preventative action is needed.

Putting key principles into practice: Urgenda Foundation v. State of the Netherlands

On 20 December 2019, the Supreme Court of the Netherlands upheld an earlier decision by the appellate court in *Urgenda Foundation v. State of the Netherlands*, finding that insufficient action to address climate change posed a “risk of irreversible changes to the worldwide ecosystems and livability of our planet” and a “serious risk that the current generation of citizens will be confronted with loss of life and/or a disruption of family life ... that the State has a duty to protect against”.⁶³

⁶³ See OHCHR, “Bachelet welcomes top court’s landmark decision to protect human rights from climate change”, 20 December 2019. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25450&LangID=E. The full judgment is available at <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2019:2007>.

This landmark judgment requires the State to take more ambitious climate action in order to protect human rights from the adverse effects of climate change. It confirms that the Government of the Netherlands and, by implication, other Governments have binding legal obligations, based on international human rights law, to greatly reduce greenhouse gas emissions.⁶⁴

In reaching this conclusion, the Court cited article 21 of the Constitution of the Netherlands; the European Union's emissions reduction targets; principles under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights); the "do no harm" principle; the doctrine of hazardous negligence; the principle of fairness, the precautionary principle and the sustainability principle embodied in the United Nations Framework Convention on Climate Change; and the principle of a high level of protection and the prevention principle embodied in European climate policy.⁶⁵

Q.7 What is a human rights-based approach to climate change?

Human rights can be integrated in climate change-related actions by applying a rights-based approach to policy and development. This is called for in the Declaration on the Right to Development and agreed upon in the "Human rights based approach to development cooperation: towards a common understanding among United Nations agencies".⁶⁶ Integrating human rights norms and principles in climate action will improve outcomes, it will ensure a holistic approach that addresses the economic, social, cultural and political dimensions of climate change and it will empower the most affected groups and peoples.

The common understanding emphasizes key human rights principles, such as: universality and inalienability, indivisibility, interdependence

⁶⁴ OHCHR, "Bachelet welcomes top court's landmark decision to protect human rights from climate change".

⁶⁵ See <http://climatecasechart.com/non-us-case/urgenda-foundation-v-kingdom-of-the-netherlands/?cn-reloaded=1>.

⁶⁶ See <https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un>.

and interrelatedness of human rights; non-discrimination and equality; participation and inclusion; accountability and the rule of law. It outlines a conceptual framework for development based on international human rights standards in order to promote and protect human rights in all development activities. A rights-based approach analyses obligations, inequalities and vulnerabilities, and seeks to redress discriminatory practices and unjust distributions of power. It anchors plans, policies and programmes in a system of rights and corresponding obligations established by international law.

A human rights-based approach should be integrated in any climate change adaptation or mitigation measure, such as the promotion of alternative energy sources, forest conservation or tree-planting projects, resettlement schemes and others. Affected individuals and communities should be allowed to participate, without discrimination, in the design, implementation and leadership of these projects. They must have access to due process and to remedy if their rights are violated.

The essential content of a human rights-based approach are the following:

- (a) As policies and programmes are formulated, the main objective should be to fulfil human rights;
- (b) The rights holders and their entitlements must be identified, as must the corresponding duty bearers and their obligations, in order to find ways to strengthen the capacities of rights holders to make their claims and of duty bearers to meet their obligations;
- (c) Principles and standards derived from international human rights law, especially the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all policies and programming during all phases of the process.

A rights-based approach to climate change demands climate justice, equity, respect for human rights, and international cooperation and solidarity. Faced with climate change, persons, groups and peoples in vulnerable situations must have their rights protected, have access to measures of adaptation and resilience and receive the support of the international community. A rights-based response should also maximize inclusion, participation and equality.

The rights-based approach requires States to respect, protect, promote and fulfil all human rights for all persons. This includes preventing foreseeable human rights harms caused by climate change or, at the very least, mobilizing the maximum available resources in an effort to do so. State commitments require international cooperation, including financial, technological and capacity-building support, to realize climate-resilient, sustainable development, while decarbonizing the economy. Only by integrating human rights in climate actions and policies, and empowering people to participate in policy formulation, can States promote sustainability and ensure the accountability of all duty bearers for their actions. This, in turn, will promote consistency, policy coherence and the enjoyment of all human rights.

Q.8 What is the role of climate litigation in protecting human rights?

Climate litigation – the practice of taking States and other duty bearers to court over insufficient climate action – is an emerging, although not new, phenomenon. It is one of the very few tools available to the general public to hold States and businesses accountable for neglecting their responsibility to protect the human rights of all persons from the adverse impacts of climate change, including for not meeting the targets of the Paris Agreement, which very few States are doing so far.

Several cases referred to in this fact sheet – *Minors Oposa v. Secretary of the Department of Environmental and Natural Resources*, *Gbemre v. Shell Petroleum Nigeria Limited and Others*, *Juliana et al. v. United States of America et al.*, *Urgenda Foundation v. State of the Netherlands* and *Future Generations v. Ministry of the Environment and Sustainable Development and Others* – as well as the petition submitted to the Committee on the Rights of the Child by 16 children against Argentina, Brazil, France, Germany and Turkey in 2019, are examples of climate litigation with children and the human rights of future generations at the centre.

*Friends of the Irish Environment CLG v. the Government of Ireland, Ireland and the Attorney General*⁶⁷ is another case in which intergenerational solidarity and the rights of the child, among other bases, are used by the applicant to support the claim that a State is not acting in compliance with its human rights obligation to mitigate climate change. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment issued a statement in relation to this case,⁶⁸ arguing that, by failing to implement a policy to reduce greenhouse gas emissions, Ireland was neglecting its human rights obligation to protect the right to life, which is universally recognized as threatened by climate change, and therefore violating human rights law.

The Immigration and Protection Tribunal of New Zealand stated in a 2014 decision that it was “widely accepted that the impacts of climate change can adversely affect the enjoyment of basic human rights”.⁶⁹ The High Court of New Zealand issued a decision acknowledging that it may be appropriate for domestic courts to play a role in government decision-making about climate change policy, recognizing the reports of the Intergovernmental Panel on Climate Change as a factual basis on which decisions can be made.⁷⁰

In *Leghari v. Federation of Pakistan*, the Lahore High Court Green Bench determined that the inaction, delay and lack of seriousness of the national government in implementing the National Climate Change Policy of 2012 and the Framework for Implementation of Climate Change Policy (2014–

⁶⁷ See Supreme Court of Ireland, *Friends of the Irish Environment CLG v. the Government of Ireland, Ireland and the Attorney General*, judgment of 31 July 2020. Available at www.courts.ie/view/judgments/681b8633-3f57-41b5-9362-8cbc8e7d9215/981c098a-462b-4a9a-9941-5d601903c9af/2020_IESC_49.pdf/pdf.

⁶⁸ The full statement is available at www.ohchr.org/Documents/Issues/Environment/FriendsIrishEnvironment25Oct2018.pdf.

⁶⁹ Immigration and Protection Tribunal of New Zealand, *AD (Tuvalu)*, [2014] NZIPT 501370-371, decision of 4 June 2014, para. 28. Available at www.refworld.org/cases,NZ_IPT,585152d14.html.

⁷⁰ High Court of New Zealand, *Sarah Thomson v. Minister for Climate Change Issues*, CIV 2015-485-919, [2017] NZHC 733, judgment of 2 November 2017, paras. 18, 94 and 133. Available at http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2017/20171102_2017-NZHC-733_decision-1.pdf.

2030) offended the fundamental constitutional rights to life and dignity of Pakistani citizens.⁷¹

International human rights mechanisms have addressed the impacts of climate change on human rights. For instance, in a 2017 Advisory Opinion, the Inter-American Court of Human Rights recognized the existence of a relationship between the protection of the environment and the realization of other human rights, due to the fact that environmental degradation and climate change affected the enjoyment of other human rights.⁷² The Advisory Opinion referenced resolution AG/RES. 2429 (XXXVIII/O/08) of the General Assembly of the Organization of American States, in which the General Assembly highlighted that climate change had adverse effects on the enjoyment of human rights. The Court also referenced several Human Rights Council resolutions and reports, stating that climate change had adverse impacts on the effective enjoyment of human rights and that, along with environmental degradation and desertification, climate change exacerbated poverty and despair.

Efforts are also under way to hold businesses accountable for their contributions to global warming. For example, the Commission on Human Rights of the Philippines recently conducted a ground breaking global investigation into the human rights violations caused by transnational corporations that are responsible for a large proportion of greenhouse gas emissions. The investigation took place in response to a complaint from survivors of Typhoon Hainan. The Commission concluded that the fossil fuel companies responsible for the majority of historical greenhouse gas emissions should be held liable for the human rights violations caused by

⁷¹ *Asghar Leghari v. Federation of Pakistan*, [2015] W.P. No. 25501/2015, decision of 4 September 2015, paras. 6–8. Available at http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2015/20150404_2015-W.P.-No.-25501201_decision.pdf.

⁷² Inter-American Court of Human Rights, *The environment and human rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and personal integrity: interpretation and scope of articles 4 (1) and 5 (1) in relation to articles 1 (1) and 2 of the American Convention on Human Rights)*, Advisory Opinion OC-23/17 of 15 November 2017. Available at www.refworld.org/cases,IACRTHR,5e67c7744.html.

climate change.⁷³ In the United States of America, litigation directed at the fossil fuel industry is currently on the rise. Investigations are ongoing into fraud by fossil fuel companies, demanding accountability for climate change. Two states have launched fraud investigations into major oil and gas companies over climate change and sued, while nine cities and counties have sued major fossil fuel companies, seeking compensation for climate change damages.⁷⁴

Q.9 What is the role of the Human Rights Council in addressing climate change?

The Human Rights Council is the principal United Nations intergovernmental body responsible for promoting and protecting human rights around the world. It is composed of 47 member States. As part of its work on human rights and the environment, the Council has addressed the issue of the impact of climate change on human rights. In its resolutions on human rights and climate change, the Council has recognized the impact climate change has on the full enjoyment of human rights, regarding it as a global problem that requires a global solution. It has clearly articulated that “human rights obligations, standards and commitments have the potential to inform and strengthen international, regional and national policymaking in the area of climate change”.⁷⁵

The Council has contributed to raising awareness of the links between human rights and climate change by successive and targeted clarifications of the ways in which climate change affects human rights, including through the adoption of a series of resolutions related to climate change and human rights.

⁷³ See the German Institute for Human Rights and the Center for International Environmental Law, “National human rights institutions and the 2018 UN Climate Conference: incorporating human rights in the implementation guidelines of the Paris Agreement” (Berlin, German Institute for Human Rights, 2018).

⁷⁴ See David Hasemyer, “Fossil fuels on trial: where the major climate change lawsuits stand today”, Inside Climate News, 17 January 2020. Available at <https://insideclimatenews.org/news/04042018/climate-change-fossil-fuel-company-lawsuits-timeline-exxon-children-california-cities-attorney-general>.

⁷⁵ Human Rights Council resolution 44/7, seventeenth preambular paragraph.

The Council has adopted the following resolutions on climate change:

- (a) 2008: in resolution 7/23, the Council expressed concern that climate change posed an immediate and far-reaching threat to people and communities around the world. It asked OHCHR to submit a detailed analytical study on the relationship between climate change and human rights to the Council (see A/HRC/10/61);
- (b) 2009: in resolution 10/4, the Council noted that climate change-related impacts had a range of implications, both direct and indirect, for the effective enjoyment of human rights and that such effects would be felt most acutely by those segments of the population who were already in vulnerable situations;
- (c) 2011: in resolution 18/22, the Council affirmed that human rights obligations, standards and principles had the potential to inform and strengthen international and national policymaking in the area of climate change, promoting policy coherence, legitimacy and sustainable outcomes;
- (d) 2014: in resolution 26/27, the Council emphasized the need for all States to enhance international dialogue and cooperation to address the adverse impacts of climate change on the enjoyment of human rights, including the right to development. It called for dialogue, capacity-building, mobilization of financial resources, technology transfer, and other forms of cooperation to facilitate climate change adaptation and mitigation, in order to meet the special needs and circumstances of developing countries;
- (e) 2015: in resolution 29/15, the Council emphasized the importance of continuing to address the adverse consequences of climate change for all, highlighting in particular its impacts on health. It asked OHCHR to conduct an analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health (see A/HRC/32/23);
- (f) 2016: in resolution 32/33, the Council expressed concern for developing countries lacking the resources to implement effective measures to mitigate extreme weather events. It also recognized the

particular vulnerabilities of children and migrants to the effects of climate change. It asked OHCHR to prepare an analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child (see A/HRC/35/13);

- (g) 2017: in resolution 35/20, the Council noted the urgent need to protect and promote the human rights of migrants and persons displaced across international borders, in the context of the adverse impact of climate change, including those from small island developing States and least developed countries. It asked OHCHR to prepare a report on addressing human rights protection gaps in the context of migration and displacement of persons across international borders resulting from the sudden-onset and slow-onset adverse effects of climate change and the necessary means of implementation of adaptation and mitigation plans of developing countries to bridge the protection gaps (see A/HRC/38/21);
- (h) 2018: in resolution 38/4, the Council called upon States to adopt a comprehensive, integrated and gender-responsive approach to climate change adaptation and mitigation policies. It urged States to strengthen and implement policies aimed at increasing the participation of women in climate change responses at the local, national, regional and international levels. It asked OHCHR to conduct an analytical study on the integration of a gender-responsive approach into climate action at the local, national, regional and international levels for the full and effective enjoyment of the rights of women (see A/HRC/41/26);
- (i) 2019: in resolution 41/21, the Council recognized that the rights of persons with disabilities were disproportionately affected by the negative impacts of climate change. It asked OHCHR to conduct an analytical study on the promotion and protection of the rights of persons with disabilities in the context of climate change (see A/HRC/44/30);
- (j) 2020: in resolution 44/7, the Council recognized that the negative impacts of climate change disproportionately affected the rights of older persons. It asked OHCHR to conduct a study on the promotion and protection of the rights of older persons in the context of climate change, including their particular vulnerabilities, such as physical and

mental health risks, and their contributions to efforts to address the adverse impact of climate change.

The Council has also addressed the issue of the impact of climate change in the framework of its work on human rights and the environment, particularly in its resolutions 16/11 (adopted in 2011), 19/10 (adopted in 2012), 25/21 (adopted in 2014), 28/11 (adopted in 2015), 31/8 (adopted in 2016), 34/20 (adopted in 2017) and 37/8 (adopted in 2018).

Q.10 What is the role of the other United Nations human rights mechanisms in addressing climate change?

The United Nations human rights mechanisms include the Human Rights Council and its subsidiary bodies, the special procedure mechanisms and the universal periodic review, as well as the human rights treaty bodies.

Special procedure mechanisms

The Human Rights Council appoints independent human rights experts with mandates to monitor, assess, report and advise on human rights from a thematic or country-specific perspective. This special procedure mechanism is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political and social rights and the right to development. The special procedure mandate holders carry out country visits; act on individual cases by sending communications to States and others in which the mandate holders bring alleged violations or abuses to the attention of the alleged perpetrators; address concerns of a broader structural nature by conducting thematic studies and convening expert consultations; contribute to the development of international human rights standards; engage in advocacy; raise public awareness; and provide advice for technical cooperation. Since 2008, the special procedures have been actively involved in addressing the human rights impacts of climate change, including in their reports and advocacy efforts, as highlighted throughout the present fact sheet and as illustrated in annex I.

Universal periodic review

The Human Rights Council conducts a periodic review of the human rights records of all States Members of the United Nations. This mechanism, called the universal periodic review, is a State-driven process and provides the opportunity for States to report on the actions that they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. The review is informed by submissions made by the human rights treaty bodies, the special procedure mandate holders, the larger United Nations system, OHCHR, national human rights institutions and non-governmental organizations. These are reflected in a compilation of information contained in the reports of treaty bodies and special procedures and other relevant United Nations documents, and a summary of stakeholders' submissions for each State under review, both prepared by OHCHR, in addition to a national report prepared by the State. Following an examination of all relevant documentation, recommendations are made. Since the beginning of the review's third cycle (in May 2017), the High Commissioner for Human Rights has written to the ministers for foreign affairs of each country reviewed after the adoption of the outcome of the review by the Human Rights Council – 112 letters by mid-2020 – highlighting selected recommendations, including those on climate change.⁷⁶ By mid-2020, 207 recommendations had been made on climate change.⁷⁷ An even larger number of recommendations had been made on matters that were closely related to climate change, such as disaster risk reduction and displacement. Climate change is now acknowledged as a global crisis and an increasing number of States have opted to address climate change in their national reports.

Human rights treaty bodies

The human rights treaty bodies are committees of independent experts that review implementation of the core international human rights treaties. The treaty bodies have addressed climate change and human rights in a number of statements, decisions, concluding observations, general comments

⁷⁶ Documentation by country is available at www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx.

⁷⁷ This number was obtained using the Universal Human Rights Index, which is available at <https://uhri.ohchr.org>.

and general recommendations. This body of work provides guidelines on State party obligations deriving from the respective Covenants and Conventions in relation to climate action and constitutes part of the evolving international human rights law framework that is increasingly addressing climate change. It includes:⁷⁸

- (a) The Committee on the Elimination of Discrimination against Women has adopted concluding observations highlighting the disproportionate negative effects of climate change on the rights of women.⁷⁹ Its recommendations to States parties have stressed the need to integrate a gender perspective into national policies and programmes on climate change, disaster response and disaster risk reduction. It has urged States parties to ensure that women are able to participate fully and meaningfully in the planning and implementation of relevant policies and programmes, including in decision-making bodies. In its general recommendation No. 37 (2018), the Committee underscored the urgency of mitigating climate change. It highlighted the steps needed to achieve gender equality as a factor that would reinforce the resilience of individuals and communities globally in the context of climate change and disasters; underlined the key principles of non-discrimination and equality, participation and empowerment, accountability and access to justice; stressed States parties' obligations to guarantee equality between women and men, including the adoption of participatory and gender-responsive policies related to disaster risk reduction and climate change strategies; and emphasized that, for effective participation, the development of women's leadership capacities in governance was needed. The general recommendation is intended to contribute to the coherence and mutual reinforcement of international agendas on disaster risk reduction and climate change adaptation, by focusing on the impact of climate change and disasters on women's human rights;

⁷⁸ For a review of the relevant work by the human rights treaty bodies on climate change, see the Center for International Environmental Law and the Global Initiative for Economic, Social and Cultural Rights, "States' human rights obligations in the context of climate change: 2019 update" (2019). Available at www.ciel.org/wp-content/uploads/2019/03/HRTB-Feb.-2019-update-2019-03-25.pdf.

⁷⁹ See, e.g., CEDAW/C/THA/CO/6-7, CEDAW/C/BRB/CO/5-8 and CEDAW/C/NOR/CO/9.

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- (b) The Committee on the Rights of the Child has adopted concluding observations on several countries addressing climate change, recommending that States take into account the rights, needs and vulnerabilities of children in climate change mitigation policies, raise children’s climate change awareness and preparedness and ensure meaningful child participation in climate change-related decision-making, among others.⁸⁰ In its general comment No. 15 (2013), the Committee highlighted the impacts of climate change and environmental degradation on children’s rights to health. In the general comment, the Committee described climate change as one of the biggest threats to children’s health and urged States to put children’s health concerns at the centre of climate action. The Committee has voiced support for children campaigning on climate change, stressing their right “to have their views listened to and taken into account”⁸¹ and it has also addressed the human rights impacts of climate change in the context of migration;⁸²
- (c) The Committee on Economic, Social and Cultural Rights addressed climate change in its general comment No. 15 (2002). Following the publication in October 2018 of the special report of the Intergovernmental Panel on Climate Change on the impacts of global warming of 1.5°C above pre-industrial levels, the Committee released a statement on climate change and the International Covenant on Economic, Social and Cultural Rights, highlighting that States’ human rights obligations should guide the design and implementation of climate action (see E/C.12/2018/1). The Committee has also addressed climate change in a series of concluding observations⁸³ and will continue to review the impacts of climate change on economic, social and cultural rights and provide guidance to States on how they can discharge their duties under the Covenant in the mitigation of climate change and adaptation to its unavoidable effects;

⁸⁰ See, e.g., CRC/C/MWI/CO/3-5, CRC/C/VCT/CO/2-3, CRC/C/MNG/CO/5 and CRC/C/AUT/CO/5-6.

⁸¹ See OHCHR, “UN child rights committee voices support for children campaigning on climate change”, 27 September 2019. Available at www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25068&LangID=E.

⁸² See, e.g., CRC/C/TUV/CO/2-5, CRC/C/COK/CO/2-5 and CRC/C/FSM/CO/2.

⁸³ See, e.g., E/C.12/RUS/CO/6, E/C.12/ARG/CO/4, E/C.12/MUS/CO/5 and E/C.12/ECU/CO/4.

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- (d) The Human Rights Committee, in its general comment No. 36 (2018), emphasized that environmental degradation, climate change and unsustainable development constituted some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.⁸⁴ A case brought by Torres Strait Islanders against Australia, accusing the Government of failing to take action to reduce emissions or pursue adaptation measures, was submitted to the Committee in 2019;⁸⁵
- (e) The Committee on the Rights of Persons with Disabilities systematically reminds States parties in its concluding observations of the need to adhere to the Convention on the Rights of Persons with Disabilities in all efforts to implement the Sendai Framework for Disaster Risk Reduction 2015–2030 and the 2030 Agenda.⁸⁶ It has also highlighted that the effects of climate change contribute to exacerbating the inequality and vulnerability of persons with disabilities during natural disasters;⁸⁷
- (f) The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families has, in its concluding observations, affirmed that the adverse impacts of climate change may impede the full realization of rights under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁸⁸

The issuance by five treaty bodies of a joint statement in relation to the Climate Action Summit in 2019 reflects an emerging consensus among these mechanisms that climate change poses a clear danger to the effective

⁸⁴ See also CCPR/C/CPV/CO/1/ADD.1.

⁸⁵ See Katherine Murphy, “Torres Strait Islanders take climate change complaint to the United Nations”, *Guardian*, 12 May 2019. Available at www.theguardian.com/australia-news/2019/may/13/torres-strait-islanders-take-climate-change-complaint-to-the-United-nations.

⁸⁶ See, e.g., CRPD/C/GTM/CO/1, CRPD/C/BOL/CO/1, CRPD/C/HND/CO/1 and CRPD/C/PAN/CO/1.

⁸⁷ See, e.g., CRPD/C/AUS/CO/2-3.

⁸⁸ See, e.g., CMW/C/BFA/CO/1, CMW/C/MRT/CO/1 and CMW/C/NER/CO/1.

enjoyment of all human rights (see HRI/2019/1).⁸⁹ The treaty bodies urged States to take into consideration their human rights obligations as they reviewed their climate commitments and to take immediate, effective action to mitigate climate change.

Teitiota v. New Zealand

The Views adopted by the Human Rights Committee in *Teitiota v. New Zealand*⁹⁰ in 2019, involving a man from Kiribati seeking asylum in New Zealand, is the first human rights treaty body decision directly addressing the human rights impacts of climate change.

In 2015, Ioane Teitiota's asylum application in New Zealand was denied and he was deported with his wife and children to his home country of Kiribati. He filed a complaint with the Human Rights Committee, arguing that, by deporting him, New Zealand had violated his right to life. Mr. Teitiota argued that the rise in sea level and other effects of climate change had rendered Kiribati uninhabitable for all its residents. Violent land disputes occurred because habitable land was becoming increasingly scarce. Environmental degradation made subsistence farming difficult and the freshwater supply was contaminated by salt water.

The Committee determined that, in Mr. Teitiota's case, New Zealand had not violated his right to life by deporting him. It noted, however, that "the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending States" (para. 9.11).

⁸⁹ The treaty bodies concerned were the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.

⁹⁰ See CCPR/C/127/D/2728/2016.

Q.11 What is the role of the United Nations Framework Convention on Climate Change and its Conference of the Parties in promoting rights-based climate action?

The United Nations Framework Convention on Climate Change was adopted at the United Nations Conference on Environment and Development (Rio de Janeiro, Brazil, 1992) and entered into force in 1994. Today, the Convention has near-universal membership. Its main goal is to enhance international cooperation, combat climate change and develop strategies to cope with its impacts. The Convention is the first international agreement to recognize climate change as a global problem and the overarching framework under which coordination for global climate action takes place. It established the responsibility of State parties to take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. In so doing, it specifies that the adverse effects of climate change include significant negative effects on human health and welfare.

According to the Convention, industrialized countries are the source of most past and current greenhouse gas emissions. As such, it puts the focus on those countries taking strong action to curb their emissions. Industrialized countries are expected to have a leading role in emission reduction. Moreover, they should support developing countries by providing financial aid for action on climate change above and beyond any financial assistance they already provide to these countries. For that purpose, the Convention established a system of grants and loans, managed by the Global Environment Facility. Industrialized nations also agreed to share technology with developing countries.

The decision-making body of the Convention is the Conference of the Parties. Parties to the Convention meet annually to review and assess its implementation, along with that of its subsidiary instruments, with the goal of reducing emissions and combating the effects of climate change through collective action. The twenty-first session of the Conference of the Parties, held in Paris in 2015, resulted in the adoption of the Paris Agreement, the first multilateral climate change agreement to explicitly reference human rights. The Paris Agreement emphasizes the importance of developed States taking the lead in enhancing their emission mitigation

efforts. Its aim is to strengthen the global response to the climate change threat in the context of sustainable development and make efforts to eradicate poverty by, among other things, holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C.

The Cancun Agreements, adopted by the sixteenth session of the Conference of the Parties in 2010, refer directly to human rights by relying on Human Rights Council resolution 10/4, in which the Council recognized the adverse effects of climate change on the effective enjoyment of human rights and called upon all States to ensure respect for human rights in their climate actions. The preamble to the Paris Agreement expanded upon this language, calling for all States to respect, promote and consider their respective obligations on human rights when taking action to address climate change.

OHCHR is working to ensure that human rights are integrated into the implementation of the Paris Agreement. It is advocating for explicit integration of human rights and related principles in relevant outcomes, including the guidelines for nationally determined contributions, which are the planned national greenhouse gas emission reductions, and efforts to adapt to the impacts of climate change that each country must submit under the Paris Agreement. In the run-up to the twenty-fifth session of the Conference of the Parties, the High Commissioner for Human Rights transmitted an open letter to all Permanent Missions in New York and Geneva on the priorities for human rights-based climate action, including the renewal and revision of nationally determined contributions, developing the rules for implementation of article 6 of the Paris Agreement and addressing loss and damage.

The Gender Action Plan, the Local Communities and Indigenous Peoples Platform Facilitative Working Group and the Action for Climate Empowerment create additional spaces for stakeholder participation under the Convention, which OHCHR has been supporting for several years.

Q.12 What rights do future generations have in the face of climate change?

While the rights of children are protected by the Convention on the Rights of the Child, the rights of future generations are not formally recognized in this or other major human rights instruments. A strong argument in favour of the rights of future generations can, however, be made on the basis of the human rights principle of equity and a number of multilateral environmental agreements. This includes the Declaration of the United Nations Conference on the Human Environment, which stated that “defend[ing] and improv[ing] the human environment for present and future generations has become an imperative goal for mankind” (para. 6) and that “man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations” (principle 1). The United Nations Framework Convention on Climate Change calls for States to protect the climate system for the benefit of current and future generations and to take action on climate change on the basis of equity.

In its resolutions 43/53, 44/207, 45/212 and 46/169, the General Assembly called for the protection of the global climate for present and future generations. The Rio Declaration on Environment and Development explicitly advanced the rights of future generations when it linked the right to development to the environment and sustainable development. In its paragraph 3, the Rio Declaration affirmed that “the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.” The Vienna Declaration and Programme of Action echoed the Rio language in its paragraph 11. The 2002 Johannesburg Declaration on Sustainable Development and the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2002, entitled “The future we want”, further affirm the links between the environment, sustainable development and the rights of future generations.

The Committee on Economic, Social and Cultural Rights stated, in its general comment No. 12 (1999), that “the notion of sustainability is intrinsically linked to the notion of adequate food or food security, implying food being accessible for both present and future generations”

(para. 7). The Committee also stated, in its general comment No. 15 (2002), that “the manner of the realization of the right to water must be sustainable, ensuring that the right can be realized for present and future generations” (para. 11). The Committee highlights the obligation of States parties to adopt strategies and programmes to ensure sufficient and safe water for present and future generations. In view of the significant threat that climate change poses to the enjoyment of the rights to adequate food and to water and sanitation, this includes taking urgent measures to mitigate and adapt to climate change.

The principle of equity, including intergenerational equity, as specifically recognized in the United Nations Framework Convention on Climate Change, calls for all parties to “protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities” (art. 3 (1)). The Paris Agreement also specifically references the rights of the child and intergenerational equity.

With respect to intergenerational justice – the idea that present generations have certain duties towards future generations – climate change raises particularly pressing issues. These include what risks those living today may impose on future generations, and how available natural resources can be used without threatening the sustainable functioning of the planet’s ecosystems. Regarding the question of what the exact rights of future generations are and who can claim them, there is an ongoing discussion at the international level. However, some Governments do recognize these rights and already have in place mechanisms to defend them. These efforts should be replicated in order to protect people and the planet now and in the future.

Future Generations v. Ministry of the Environment and Sustainable Development and Others

In 2018, the Supreme Court of Colombia ruled in favour of 25 plaintiffs aged between 7 and 26 years in the case *Future Generations v. Ministry of the Environment and Sustainable Development and Others*.⁹¹ The plaintiffs asked the Court to protect their constitutional rights to life, a healthy environment, and food and water by ordering the Government to honour its commitment to tackling climate change, including by stopping the country's deforestation. James E. Hansen, Director of Climate Science, Awareness and Solutions at the Earth Institute at Columbia University, submitted an amicus brief in support of the plaintiffs' claim, stating that the precautionary principle counselled immediate action to avert climate change. He stressed that climate change impacts, which had already caused harm to the rights of current generations, would cause even more harm to future generations. On that basis, the principle of intergenerational equity, solidarity, participation and the best interests of the child necessitated urgent action.

The Court upheld that position, recognizing the rights of future generations and indicating that the environmental rights of future generations were based on the (a) ethical duty of solidarity of the species and (b) the intrinsic value of nature. According to the Court, the first is explained by the fact that natural resources are shared by all inhabitants of Earth, including their descendants or future generations, who would be recipients and owners of these resources. Without an equitable and prudent approach to consumption, the future of humankind may be compromised due to the scarcity of essential life resources. In this way, solidarity and environmentalism are interrelated and, at a certain point, become the same. The Court found that the intrinsic value of nature placed humans on a par with the environmental ecosystem, thus precluding arrogant, dismissive and irresponsible treatment of environmental resources.

⁹¹ See Supreme Court of Colombia, *Future Generations v. Ministry of the Environment and Sustainable Development and Others*, STC4360-2018, judgment of 5 April 2018. Key excerpts of the judgment are available (in English) at http://blogs2.law.columbia.edu/climate-change-litigation/wp-content/uploads/sites/16/non-us-case-documents/2018/20180405_11001-22-03-000-2018-00319-00_decision-1.pdf.

The Court concluded that the current generation, as a guardian of existing natural resources, had a binding legal obligation towards future generations to take care of those resources. The case provides important arguments for why the rights of future generations are enforceable human rights, which create a legal obligation for States to take urgent climate action.

Q.13 How might global recognition of the human right to a safe, clean, healthy and sustainable environment affect climate action?

More than 80 per cent of States Members of the United Nations now recognize the right to a safe, clean, healthy and sustainable environment through their constitutions, legislation or ratification of regional human rights treaties (A/HRC/43/53, para. 13). A safe climate is one of the key substantive elements of the right to a safe, clean, healthy and sustainable environment along with, inter alia, a non-toxic environment, clean air, clean water, safe and adequate food and healthy ecosystems (see A/74/161). These basic elements are interconnected and critical for human survival.

In a 2018 report on framework principles on human rights and the environment, the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment highlighted the significance of the recognition of that right by the majority of countries, underlining the advantages of its inclusion in national constitutions. According to the Special Rapporteur, constitutional recognition of the right to a healthy environment “raised the profile and importance of environmental protection and provided a basis for the enactment of stronger environmental laws. When applied by the judiciary, it has helped to provide a safety net to protect against gaps in statutory laws and created opportunities for better access to justice” (A/HRC/37/59, para. 13). The use of the term “the human right to a healthy environment” contributes to raising awareness of the fact that protection of the environment is required by human rights norms and highlights the importance of environmental protection for human dignity, equality and freedom. According to the Special Rapporteur, it

also contributes to ensuring that human rights norms relating to the environment continuously develop in a coherent and integrated manner.

Evidence drawn from decades of national experience with the right to a healthy environment demonstrates that it serves as a catalyst for a number of important benefits, including: stronger environmental laws and policies; improved implementation and enforcement of those laws and policies; increased levels of public participation in environmental decision-making; increased access to information and access to justice; and reduced environmental injustices.

The most important conclusion reached by researchers is that recognition of the right to a healthy environment contributes to better human rights outcomes through improved environmental performance, including reduced greenhouse gas emissions and cleaner air.

In their work, the human rights treaty bodies have increasingly emphasized the interlinkages between a healthy environment and the effective enjoyment of human rights. The Committee on Economic, Social and Cultural Rights has stated that “climate change already affects, in particular, the rights to health, food, water and sanitation; and it will do so at an increasing pace in the future” (E/C.12/2018/1, para. 4) and that the underlying determinants of health include a healthy environment (general comment No. 14 (2000)). In its general comment No. 36 (2018), the Human Rights Committee emphasized that environmental degradation, climate change and unsustainable development posed a threat to the ability to enjoy the right to life of both current and future generations. Article 24 of the Convention on the Rights of the Child establishes an obligation on States parties to “recognize the right of the child to the enjoyment of the highest attainable standard of health ... taking into consideration the dangers and risks of environmental pollution”. The Committee on the Rights of the Child further clarified, in its general comment No. 15 (2013), that “States should take measures to address the dangers and risks that local environmental pollution poses to children’s health in all settings” (para. 49).

A human rights-based approach to climate action, drawing upon the human right to a healthy environment, requires greater ambition than even that contained in the Paris Agreement. Limiting global greenhouse

gas emissions to the level required to limit global heating to 1.5°C is not enough to limit the adverse impacts of climate change on human rights, which are already manifesting themselves today. Such an approach also requires participation, access to information and access to justice and actions that protect the most vulnerable, among others. Global recognition of the human right to a healthy environment is important because it can facilitate and support these elements, in addition to accountability, transparency and the other principles of a human rights-based approach to climate action outlined in the present fact sheet.

Q.14 What efforts is the United Nations system making to promote and protect environmental human rights?

Within the United Nations system, numerous efforts are under way to advance the human right to a safe, clean, healthy and sustainable environment and support its effective implementation. Two such efforts are described below.

In “The highest aspiration: a call to action for human rights”, launched at the forty-third session of the Human Rights Council, the Secretary-General called for the inclusion of the voices and rights of future generations in decision-making related to the mounting climate emergency. He explicitly called for support for the right to a safe, clean, healthy and sustainable environment and asked for efforts to be made at all levels, engaging all actors in society. He underscored the need to protect those who raised their voices to press for such action and called for the development of protection mechanisms for human rights defenders and environmental activists, particularly young people and women. He also called on United Nations presences on the ground to partner with civil society organizations in their work to contribute to an enabling environment for meaningful and effective public participation in decision-making.

In 2019, the heads of the United Nations Environment Programme and OHCHR signed a memorandum of understanding aimed at increasing support for national implementation of human rights-based environmental

policies.⁹² The two organizations encourage greater acceptance by leaders and Governments of the human right to a healthy environment as part of their efforts to pursue global recognition of this right. They also aim to enhance protection of environmental human rights defenders and their families, including by advocating for better protection, urging more effective accountability for perpetrators of violence and intimidation, and promoting meaningful and informed participation by human rights defenders and civil society in environmental decision-making.

Q.15 What are States' common but differentiated responsibilities related to climate change?

The principle of common but differentiated responsibilities and respective capabilities is central to the climate change regime and affirms that all States have common responsibilities to protect the environment and promote sustainable development, but with different burdens due to their different contributions to environmental degradation and to their varying financial and technological capabilities.⁹³

The Rio Declaration on Environment and Development, the Vienna Declaration and Programme of Action and “The future we want” all call for the right to development, which is articulated in the Declaration on the Right to Development, to be fulfilled so as to equitably meet the developmental and environmental needs of present and future generations. The United Nations Framework Convention on Climate Change calls upon States to protect future generations and to take action on climate change on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. While climate change affects people everywhere, those who have contributed the least to greenhouse gas emissions – the poor, children and future generations – are those most affected.

⁹² See www.ohchr.org/Documents/HRBodies/SP/Signed%20MOU.pdf.

⁹³ *Realizing the Right to Development*, p. 336.

Q.16 What role does international cooperation and solidarity play in climate action?

The Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights and other human rights instruments impose upon States the duty to cooperate to ensure the realization of all human rights.⁹⁴ In line with the principles of international cooperation and solidarity, States should share the necessary resources, knowledge and technology to address climate change, in particular with those States most affected. This could contribute to a leap in technology in the developing world, which could open development paths that reduce emissions and enhance resilience.⁹⁵ In her 2020 report on international cooperation, the High Commissioner for Human Rights highlighted that equity in climate action, including through international cooperation, required that efforts to mitigate and adapt to the impacts of climate change should benefit people in small island developing States and other developing countries, indigenous peoples and others in vulnerable situations (A/HRC/44/28, para. 68).

The Special Rapporteur on the right to development has highlighted that South-South initiatives can play an important role in strengthening disaster risk reduction and climate change adaptation in developing countries. According to the Special Rapporteur, South-South partnerships play a key role in supporting national capacities to manage disaster risk, in complementarity with North-South and triangular cooperation. South-South partnerships involve Governments, regional organizations, non-governmental organizations and civil society actors, academia and the private sector. They take the form of triangular cooperation when facilitated by developed countries and/or multilateral organizations (see A/73/271).

⁹⁴ OHCHR, "Key messages on human rights and climate change". Available at www.ohchr.org/Documents/Issues/ClimateChange/KeyMessages_on_HR_CC.pdf.

⁹⁵ *Realizing the Right to Development*, p. 326.

Q.17 What steps should be taken going forward?

Moving forward, critical building blocks in the response to climate change include mitigation, adaptation, international cooperation, strengthened accountability mechanisms for climate change-related human rights obligations and the effective remediation of climate change-related human rights harms.

Under international human rights law, States must prevent the foreseeable adverse effects of climate change, including on human health and welfare, through increased efforts to tackle it. Mitigation efforts must reduce greenhouse gas emissions from human activities, such as the burning of fossil fuels and deforestation, in order to limit global heating to the greatest extent possible, thus reducing its ongoing and future negative human rights impacts.

States must also take adaptation actions that protect persons in vulnerable situations, who are most endangered by the negative impacts of climate change, and ensure that no one is left behind. Adaptation measures should be participatory, gender-responsive and adequately resourced. They should reduce vulnerability and build resilience for the people and communities most affected by climate change through, inter alia, effective management of water, forests, natural resources, agriculture, fisheries, storm surges, flooding and changing patterns of precipitation.

International cooperation, in accordance with the principles of equity and common but differentiated responsibilities, is of the essence in addressing the impact of climate change on human rights and must therefore be supported. Collective efforts to address climate change and its impacts on human rights are the only way to effectively and fairly address the global climate crisis. Cooperation in areas such as technology transfer and financing climate action is a matter of legal obligation and human survival. Those affected by climate change must have access to meaningful remedies, including judicial and other redress mechanisms, and States must be accountable to rights holders for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction.

For climate action to be successful, national laws and policies – such as national climate change plans and strategies, including the preparation

of nationally determined contributions under the Paris Agreement – must include human rights. By calling for nationally determined contributions to be updated every five years in a process informed by a global stocktake, the Paris Agreement includes a built-in mechanism for ratcheting up ambition. A rights-based approach to climate action can drive higher ambition and ensure more effective action, which benefits climate-affected people and communities, contributing to the realization of their human rights during the implementation of the Paris Agreement.

The periodic revision and renewal of nationally determined contributions offers a critical window of opportunity to promote human rights policy coherence by building upon existing good practices and experiences among countries. The implementation of national climate commitments, including nationally determined contributions, from 2020 onwards, requires the development of ambitious domestic climate laws and policies, including those that are needed to implement those contributions. The nationally determined contributions review process taking place in 2025 provides another milestone opportunity for measuring progress and increasing ambition for effective, rights-based climate action. Governments must aim for the highest ambition possible, putting people at the centre of all climate action.

The manner in which efforts to realize human rights are made has implications for climate change and should be reflected in relevant policies. For example, with respect to food, FAO estimates that agriculture, forestry and other land use accounts for 24 per cent of global greenhouse gas emissions.⁹⁶ However, sustainable farming, livestock-raising, fisheries and forestry may help countries reduce their emissions, while addressing their food security, resilience and rural development goals.⁹⁷ Almost 90 per cent of countries that submitted their intended nationally determined contributions in 2015 included those opportunities.⁹⁸ Recognizing the rights of indigenous peoples to their traditional lands, territories and resources and supporting community-based conservation initiatives can have similar positive effects. For maximum impact, States should ensure that their

⁹⁶ See FAO, “Greenhouse gas emissions from agriculture, forestry and other land use” (Rome, 2016). Available at www.fao.org/3/a-i6340e.pdf.

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

domestic climate policies, including nationally determined contributions, are focused on protecting both people and the planet, thereby satisfying both their human rights obligations and climate commitments.

National actions alone will not realize the objectives of the Paris Agreement, nor protect human rights from the adverse effects of climate change. International, multi-stakeholder action is needed at all levels. The following actions represent an illustrative sampling of the types of human rights-based climate action that can be transformative, protecting people and the planet from the scourge of climate change in the years to come.

- (a) Recognize and implement the human right to a safe, clean, healthy and sustainable environment, which includes a safe and stable climate;
- (b) Mobilize the maximum available resources to prevent the negative human rights impacts of climate change, including through international cooperation in accordance with the principles of equity and common but differentiated responsibilities;
- (c) Mobilize at least \$100 billion a year for climate change mitigation and adaptation in developing countries and promote other forms of cooperation (i.e. technical and technological);
- (d) Hold all actors accountable for their contributions to climate change, including businesses;
- (e) Ensure that climate action benefits those most affected by climate change and aligns with human rights obligations, the 2030 Agenda and the eradication of poverty for all, leaving no one behind;
- (f) Develop and effectively implement social and environmental safeguards in the context of all climate action;
- (g) Empower national human rights institutions to contribute to the planning and implementation of national climate commitments, laws and policies;
- (h) Guarantee a safe and enabling environment for human rights defenders, including climate activists;
- (i) Guarantee the meaningful and effective participation of all people, including women, young persons and indigenous peoples, in climate-related decision-making;

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- (j) Ensure access to information and education related to climate change and its causes and impacts;
 - (k) Ensure that affected individuals and communities have access to justice and remedy if their rights are violated;
 - (l) Enhance the climate resilience of individuals and communities through social safety nets and access to basic services;
 - (m) Ensure that people who depend on natural resources for their livelihoods have access to the necessary information, resources and technology to adapt to climate change;
 - (n) Mainstream women's rights and gender equality in all climate action;
 - (o) Recognize indigenous peoples' rights, in particular their rights to traditional knowledge, lands, territories and resources, ensuring that all climate actions that may affect indigenous peoples are carried out with their free, prior and informed consent;
 - (p) Share experiences, knowledge and technology, ensuring that all people enjoy the benefits of science and its application, in order to mitigate and adapt to climate change;
 - (q) Implement the recommendations of United Nations human rights mechanisms that provide guidance on human rights-based climate action;
 - (r) Decarbonize global and national economies by investing in a green recovery from coronavirus disease (COVID-19) and a just transition of the workforce to sustainable livelihoods;
 - (s) Eliminate fossil fuel subsidies while taking appropriate measures to protect the rights of persons in vulnerable situations, who may be detrimentally affected by increased energy and fuel costs;
 - (t) Ensure that no new coal-fired power plants are built and decommission old ones, improving air quality and human health while reducing emissions.

Annex I

Special procedure mechanisms that have addressed climate change in their work¹

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

- Preliminary report, 2012 (A/HRC/22/43)
- Mapping report, 2013 (A/HRC/25/53)
- Good practices report, 2015 (A/HRC/28/61)
- Implementation report, 2015 (A/HRC/31/53)
- Climate change, 2016 (A/HRC/31/52)
- Biodiversity, 2017 (A/HRC/34/49)
- Children's rights and the environment, 2018 (A/HRC/37/58)
- Framework principles on human rights and the environment, 2018 (A/HRC/37/59)
- Global recognition of the right to a safe, clean, healthy and sustainable environment, 2018 (A/73/188)
- Clean air and the right to a healthy and sustainable environment, 2019 (A/HRC/40/55)
- Safe climate, 2019 (A/74/161)
- Right to a healthy environment: good practices, 2019 (A/HRC/43/53)
- Good practices of States at the national and regional levels with regard to human rights obligations relating to the environment, 2020 (A/HRC/43/54)

Special Rapporteur on extreme poverty and human rights

- Climate change and poverty, 2019 (A/HRC/41/39)²

¹ For more information, see www.ohchr.org/Documents/HRBodies/SP/List_SP_Reports_Climate_Change.pdf.

² See also A/65/259.

Special Rapporteur on the rights of indigenous peoples

- Impacts of climate change and climate finance on indigenous peoples' rights, 2017 (A/HRC/36/46)³

Special Rapporteur on the situation of human rights defenders

- Environmental human rights defenders, 2016 (A/71/281)

Special Rapporteur on the right to food

- Impact of climate change on the right to food, 2015 (A/70/287)⁴

Special Rapporteur on the human rights of migrants

- Climate change and migration, 2012 (A/67/299)⁵

Special Rapporteur on the human rights of internally displaced persons

- Climate change and internal displacement, 2011 (A/66/285)⁶
- Internal displacement in the context of the slow-onset adverse effects of climate change, 2020 (A/75/207)

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

- Climate change and the right to adequate housing, 2009 (A/64/255)⁷

Special Rapporteur on the human rights to safe drinking water and sanitation

- Climate change and the human rights to water and sanitation: position paper, 2010⁸

³ See also A/73/176 and A/HRC/39/17.

⁴ See also A/HRC/16/49, A/HRC/31/51, A/71/282, A/72/188, A/HRC/37/61, A/HRC/40/56 and A/74/164.

⁵ See also A/71/285.

⁶ See also A/HRC/19/54 and Add.1, A/HRC/29/34, A/71/279, A/HRC/35/27, A/HRC/38/39 and A/HRC/41/40.

⁷ See also A/74/183.

⁸ See www.ohchr.org/Documents/Issues/Water/Climate_Change_Right_Water_Sanitation.pdf.

Joint reports

- Effects of climate change on the full enjoyment of human rights, 2015⁹

Joint statements

- Open letter to State parties to the United Nations Framework Convention on Climate Change, 2014¹⁰
- On the occasion of World Environment Day, 2015¹¹
- In relation to the United Nations Climate Action Summit, 2019¹²

Other special procedure mechanisms that have addressed climate change in their work include: the Working Group on the issue of human rights and transnational corporations and other business enterprises;¹³ the Special Rapporteur in the field of cultural rights;¹⁴ the Special Rapporteur on the right to development;¹⁵ the Special Rapporteur on the rights of persons with disabilities;¹⁶ the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights;¹⁷ the Special Rapporteur on the rights to freedom of peaceful assembly and of association;¹⁸ the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;¹⁹ the Independent Expert on the promotion of a democratic and equitable international order;²⁰ the Independent Expert on human rights and international solidarity;²¹ the Special Rapporteur on

⁹ See https://unfccc.int/files/science/workstreams/the_2013-2015_review/application/pdf/cvf_submission_annex_1_humanrights.pdf.

¹⁰ See www.ohchr.org/Documents/HRBodies/SP/SP_To_UNFCCC.pdf.

¹¹ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=166049&LangID=E.

¹² See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25003.

¹³ See A/HRC/41/43.

¹⁴ See "Preliminary findings and observations on visit to Tuvalu by UN Special Rapporteur in the field of cultural rights, Karima Bennouna"; A/HRC/40/53; A/74/255 and A/75/298.

¹⁵ See A/73/271, A/HRC/42/38 and A/74/163.

¹⁶ See A/71/314.

¹⁷ See A/71/305.

¹⁸ See A/73/279 and A/74/349.

¹⁹ See A/71/304 and A/74/174.

²⁰ See A/72/187.

²¹ See A/69/366, A/70/316, A/71/280, A/HRC/38/40 and A/HRC/44/44.

minority issues;²² the Independent Expert on the enjoyment of all human rights by older persons;²³ the Special Rapporteur on contemporary forms of slavery, including its causes and its consequences;²⁴ and the Independent Expert on the situation of human rights in Somalia.²⁵

²² See A/71/254.

²³ See A/HRC/42/43.

²⁴ See A/74/179 and A/HRC/42/44.

²⁵ See A/HRC/42/62.

Annex II

Explicit references to human rights under the United Nations Framework Convention on Climate Change¹

- *The Cancun Agreements: outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, decision 1/CP.16 (2010)*

Preamble: “*Noting* resolution 10/4 of the United Nations Human Rights Council on human rights and climate change, which recognizes that the adverse effects of climate change have a range of direct and indirect implications for the effective enjoyment of human rights and that the effects of climate change will be felt most acutely by those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability”.

Paragraph 8: “*Emphasizes* that Parties should, in all climate change related actions, fully respect human rights”.

Paragraph 88, preamble: “*Taking note* of relevant provisions of the United Nations Declaration on the Rights of Indigenous Peoples”.

Appendix I, paragraph 2: “When undertaking the activities referred to in paragraph 70 of this decision, the following safeguards should be promoted and supported: ... (c) Respect for the knowledge and rights of indigenous peoples and members of local communities, by taking into account relevant international obligations, national circumstances and laws, and noting that the United Nations General Assembly has adopted the United Nations Declaration on the Rights of Indigenous Peoples”.

¹ Center for International Environmental Law, *Rights in a Changing Climate: Human Rights under the UN Framework Convention on Climate Change* (Washington, D.C., 2019), pp. 11–13.

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- *Adoption of the Paris Agreement, decision 1/CP.21 (2015)*

Preamble: “*Acknowledging* that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

- *Third comprehensive review of the implementation of the framework for capacity-building in developing countries under the Convention, decision 16/CP.22 (2016)*

Paragraph 4: “*Also invites* the Paris Committee on Capacity-building, in managing the 2016–2020 workplan: (a) To take into consideration cross-cutting issues such as gender responsiveness, human rights and indigenous peoples’ knowledge”.

- *Establishment of a gender action plan, decision 3/CP.23 (2017)*

Preamble: “*Also recalling* that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights as well as gender equality”.

- *Local Communities and Indigenous Peoples Platform, decision 2/CP.23 (2017)*

Preamble: “*Recalling* the United Nations Declaration on the Rights of Indigenous Peoples, decision 1/CP.21 and the Paris Agreement”.

Preamble: “*Acknowledging* that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on the rights of indigenous peoples and local communities”.

Paragraph 6 (c): “Climate change policies and actions: the platform should facilitate the integration of diverse knowledge systems, practices and innovations in designing and implementing international and national actions, programmes and policies in a manner that respects and promotes the rights and interests of local communities and indigenous peoples.

The platform should also facilitate the undertaking of stronger and more ambitious climate action by indigenous peoples and local communities that could contribute to the achievement of the nationally determined contributions of the Parties concerned”.

- *Local Communities and Indigenous Peoples Platform, decision 2/CP.24 (2018)*

Preamble: “*Also emphasizing*, in its entirety, the United Nations Declaration on the Rights of Indigenous Peoples in the context of the implementation of the functions of the Local Communities and Indigenous Peoples Platform involving indigenous peoples”.

- *Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, decision 10/CP.24 (2018)*

Annex, paragraph 1 (g): “Invite Parties: (i) To consider formulating laws, policies and strategies, as appropriate, that reflect the importance of integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change and in the broader context of human mobility, taking into consideration their respective human rights obligations and, as appropriate, other relevant international standards and legal considerations”.

Annex III

Abridged history of international efforts related to climate change

Year	Event
1979	The first World Climate Conference takes place.
1988	The Intergovernmental Panel on Climate Change is set up.
1990	The First Assessment Report of the Intergovernmental Panel on Climate Change is released. The Panel and the Second World Climate Conference call for a global treaty on climate change. Negotiations at the General Assembly begin on a framework convention.
1991	The first meeting of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change takes place.
1992	The Intergovernmental Negotiating Committee adopts the United Nations Framework Convention on Climate Change. At the United Nations Conference on Environment and Development (Rio de Janeiro, Brazil), the <u>United Nations Framework Convention on Climate Change</u> is opened for signature along with the <u>Convention on Biological Diversity</u> . The <u>secretariat of the United Nations Framework Convention on Climate Change</u> is set up to support action under the Convention.
1994	The United Nations Framework Convention on Climate Change enters into force. The <u>United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa</u> is opened for signature.

1995	The first session of the Conference of the Parties takes place in Berlin.
1997	The <u>Kyoto Protocol</u> is formally adopted at the third session of the Conference of the Parties.
2001	The Third Assessment Report of the Intergovernmental Panel on Climate Change is released. The Bonn Agreements are adopted, based on the Buenos Aires Plan of Action of 1998. The Marrakesh Accords are adopted at the seventh session of the Conference of the Parties. ¹
2005	The Kyoto Protocol enters into force. The first session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol takes place in Montreal, Canada. Parties launch negotiations on the next phase of the Kyoto Protocol under the <u>Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol</u> . The <u>Nairobi work programme on impacts, vulnerability and adaptation to climate change</u> is accepted and agreed upon.
2007	The Fourth Assessment Report of the Intergovernmental Panel on Climate Change is released. At the thirteenth session of the Conference of the Parties, the <u>Bali Road Map</u> is adopted. It charts the way towards a post-2012 outcome in two work streams: the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol and the <u>Ad Hoc Working Group on Long-term Cooperative Action under the Convention</u> .

¹ See FCCC/CP/2001/13/Add.1 and Corr.1.

2009	The Copenhagen Accord ² is drafted at the fifteenth session of the Conference of the Parties. Countries later submit emission reduction pledges or mitigation action pledges, all of which are non-binding.
2010	The <u>Cancun Agreements</u> ³ are drafted and accepted at the sixteenth session of the Conference of the Parties.
2011	The Durban Platform for Enhanced Action ⁴ is drafted and accepted at the seventeenth session of the Conference of the Parties. ⁵
2012	The Doha Amendment to the Kyoto Protocol ⁶ is adopted at the eighth session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol. ⁷ Several decisions are taken, opening a gateway to greater ambition and action at all levels. ⁸

² Conference of the Parties decision 2/CP.15.

³ Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol decisions 1/CMP.6 and 2/CMP.6.

⁴ Conference of the Parties decision 1/CP.19.

⁵ See <https://unfccc.int/process/conferences/the-big-picture/milestones/outcomes-of-the-durban-conference>.

⁶ Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol decision 1/CMP.8.

⁷ See <https://unfccc.int/process/the-kyoto-protocol/the-doha-amendment>.

⁸ See <https://unfccc.int/process/conferences/the-big-picture/milestones/the-doha-climate-gateway>.

2013	Key decisions adopted at the nineteenth session of the Conference of the Parties/ninth session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol include decisions on further advancing the Durban Platform for Enhanced Action, the Green Climate Fund, the Warsaw Framework for REDD-plus and the Warsaw International Mechanism for Loss and Damage Associated with Climate Change Impacts. Under the Durban Platform for Enhanced Action, parties agree to submit intended nationally determined contributions. ⁹
2014	At the twentieth session of the Conference of the Parties in Lima, the parties adopt the <u>Lima Call for Climate Action</u> , ¹⁰ which elaborates key elements of the forthcoming agreement in Paris.
2015	Intensive negotiations take place under the Ad Hoc Group on the Durban Platform for Enhanced Action throughout the period 2012–2015 and culminate in the adoption of the Paris Agreement ¹¹ by the Conference of the Parties. ¹² The <u>Local Communities and Indigenous Peoples Platform</u> is established.
2017	At the twenty-third session of the Conference of the Parties in Bonn, Germany, the Gender Action Plan of the United Nations Framework Convention on Climate Change is adopted under the Lima work programme on gender. ¹³
2018	At the twenty-fourth session of the Conference of the Parties in Katowice, Poland, Governments agree on implementation guidelines for the Paris Agreement.

⁹ See <https://unfccc.int/process/conferences/the-big-picture/milestones/outcomes-of-the-warsaw-conference>.

¹⁰ Conference of the Parties decision 1/CP.20.

¹¹ Conference of the Parties decision 1/CP.21.

¹² See <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>.

¹³ Conference of the Parties decision 3/CP.23. See also <https://unfccc.int/topics/gender/workstreams/the-enhanced-lima-work-programme-on-gender>.

2019	At the twenty-fifth session of the Conference of the Parties in Madrid, the Gender Action Plan ¹⁴ is renewed and the workplan of the Local Communities and Indigenous Peoples Platform is adopted. ¹⁵ Also known as the “Blue Conference of the Parties”, due to its focus on oceans, the Conference of the Parties sees 39 countries committing to including oceans in their future nationally determined contributions.
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¹⁴ Conference of the Parties decision 3/CP.25.

¹⁵ See <https://unfccc.int/topics/gender/workstreams/the-gender-action-plan>.

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