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ENVIRONMENTAL LAW



Global Initiative
for Economic, Social
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States' Human Rights Obligations in the Context of Climate Change

Guidance Provided by the UN Human Rights Treaty Bodies



Overview

Human rights treaty bodies (HRTBs) are the expert bodies established by the international human rights treaties and mandated to monitor their implementation by the State parties to those treaties. The HRTBs are made up of independent human rights experts elected by the State parties. They have three main activities: reviewing States' implementation of the relevant human rights treaty (State review process); elaborating General Comments (GCs) or statements that provide guidance to States on the interpretation of the treaty; and adjudicating Individual Communications (complaints of violations of the treaty by a State Party) and issuing decisions.

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

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

Overall, the HRTBs have demonstrated that they fully recognize that climate change is a pressing human rights issue and a key subject of their mandate. In 2022, HRTBs issued ninety-five climate-related references to climate change in the outputs (meaning the Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs)) made to States as part of the HRTBs' State reporting procedures (43 LOIs/LOIPRs and 52 COBs). This is an increase compared to previous years, including 2019 (before COVID-19 affected the work of the HRTBs).

In 2022, only one HRTB delivered its conclusions in relation to an individual communication related to climate change: the Human Rights Committee (CCPR) in relation to the [communication of Billy et al. v. Australia](#). The communication referred to the duty of the State party to protect the claimant and his family members, living in the Torres Straits Islands, from climate-induced harms.

Several HRTBs made progress toward or finalized GCs (authoritative statements regarding the interpretation of United Nations human rights treaties) addressing how States must uphold some of their obligations in the context of climate change. The Committee on the Elimination of Discrimination Against Women (CEDAW) finalized its [General Recommendation No. 39 \(2022\) on the rights of Indigenous women and girls](#) and the Committee on Economic, Social and Cultural Rights (CESCR) finalized its [General Comment No. 26 \(2022\) on land and economic, social and cultural rights](#). Additionally, the Committee on the Rights of the Child (CRC) released a full draft of its upcoming [General Comment No. 26 on children's rights and the environment with a special focus on climate change](#) while the Committee on the Rights of Persons with Disabilities (CRPD) communicated an [outline of its upcoming General Comment on article 11 of the Convention on the Rights of Persons with Disabilities \(ICRPD\)](#).

Recent developments at the UN General Assembly (UNGA) will be relevant to the future work of HRTBs. Building upon the recognition of the right to a clean, healthy, and sustainable environment by the UN Human Rights Council in 2021 ([HRC resolution 48/13](#)), the UNGA recognized this right in July 2022 ([UNGA resolution 76/300](#)). The right is already protected explicitly under the International Convention on the Rights of the Child (ICRC) and directly relevant to other UN human rights treaties. In 2022, no HRTB has mentioned the right to a healthy

environment in the context of climate change, but the recognition of this right provides HRTBs with a critical role in guiding States in implementing and protecting it in the coming years.

It is also to be expected that the work of treaty bodies will increasingly intersect and interact with the work of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, whose mandate was established by the Human Rights Council in October 2021 ([HRC resolution 48/14](#)). The Special Rapporteur already took note of HRTBs' work on climate change in his report on [Initial planning and vision for the mandate](#), and referred to the CCPR's General Comment No. 36 on Article 6: right to life in his report on [Promotion and protection of human rights in the context of climate change mitigation, loss and damage and participation](#). This illustrates the increasing cross-pollination among human rights institutions and procedures to further articulate States' obligations in the context of climate change.

As the climate crisis unfolds, UN and regional human rights mechanisms and procedures should continue to build on their work on climate change and monitor and respond to the worsening climate-driven human rights crisis in 2023 and beyond. In light of their mandates, HRTBs have a unique role to play to continue reviewing the adequacy of the climate policies of individual States and to continue to provide authoritative statements regarding the scope of the human rights obligations of States in the context of climate urgency. Such a process should include the heightened obligations that States owe to specific segments of the population and the extent of their duty to effectively regulate private actors. HRTBs also have an important role to play in unpacking States' obligations with regard to fossil fuels as the key drivers of climate change, as well as other dimensions that have received little attention so far but are also very relevant, such as averting harms in the context of climate-related loss and damage, preventing further harm that could result from geoengineering activities, and fulfilling the right to a healthy environment.

Glossary of Acronyms

CAT	Committee Against Torture
CCPR	Human Rights Committee
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination Against Women / Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination / Convention on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on Migrant Workers
COB	Concluding Observations
CRC	Committee on the Rights of the Child / Convention on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
GC	General Comment
GR	General Recommendation
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICRC	International Convention on the Rights of the Child
ICRPD	International Convention on the Rights of Persons with Disabilities
LDCs	Least Developed Countries
LOI	List of Issues
LOIPR	List of Issues Prior to Reporting
OPIC	Optional Protocol on Communications Procedure (under the Convention on the Rights of the Child)
SIDS	Small Island Developing States
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDROP	United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
UNFCCC	United Nations Framework Convention on Climate Change

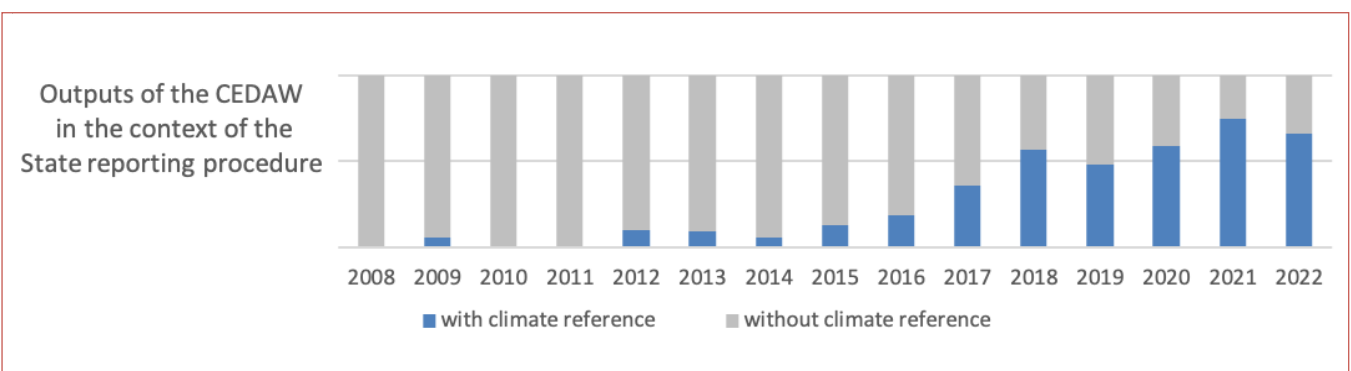
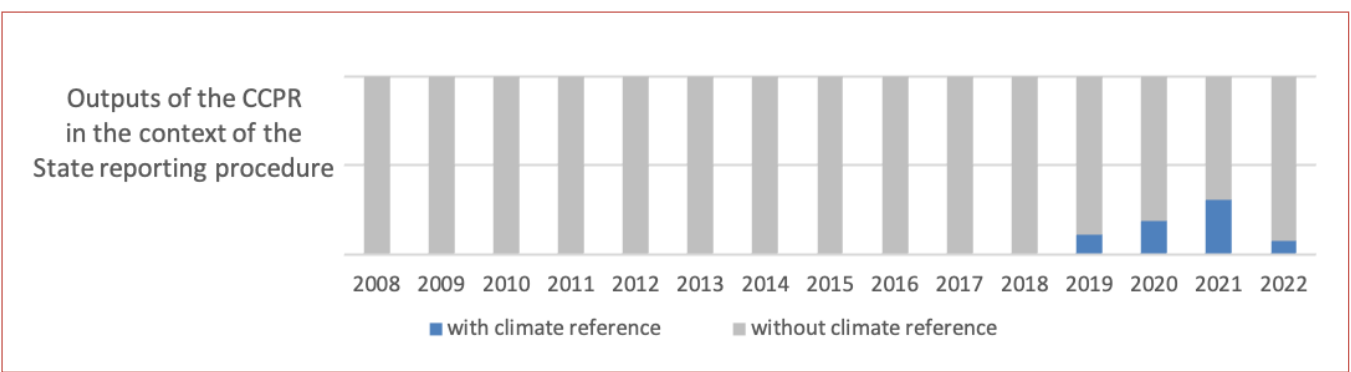
Analysis of the Contributions of the HRTBs to Elaborating States' Human Rights Obligations in the Context of Climate Change

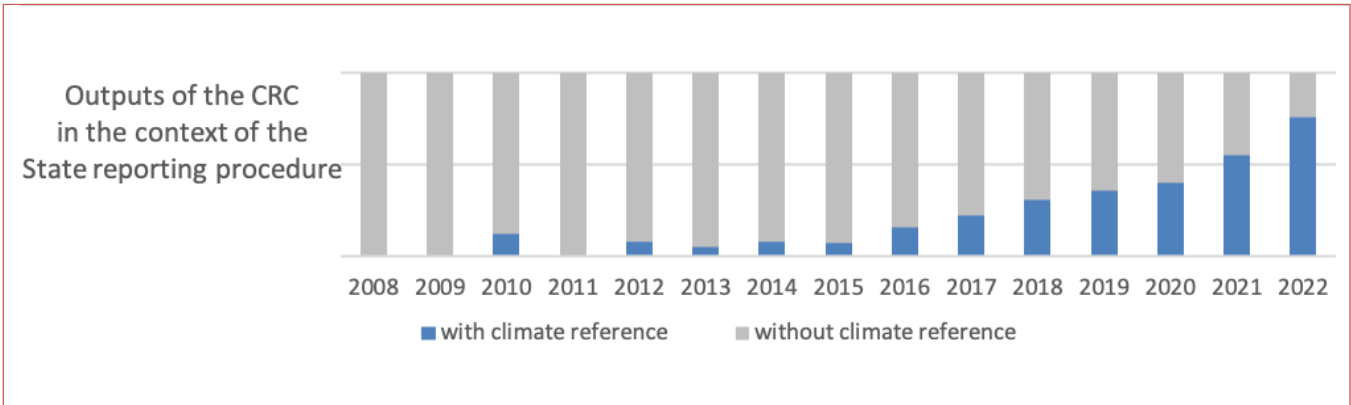
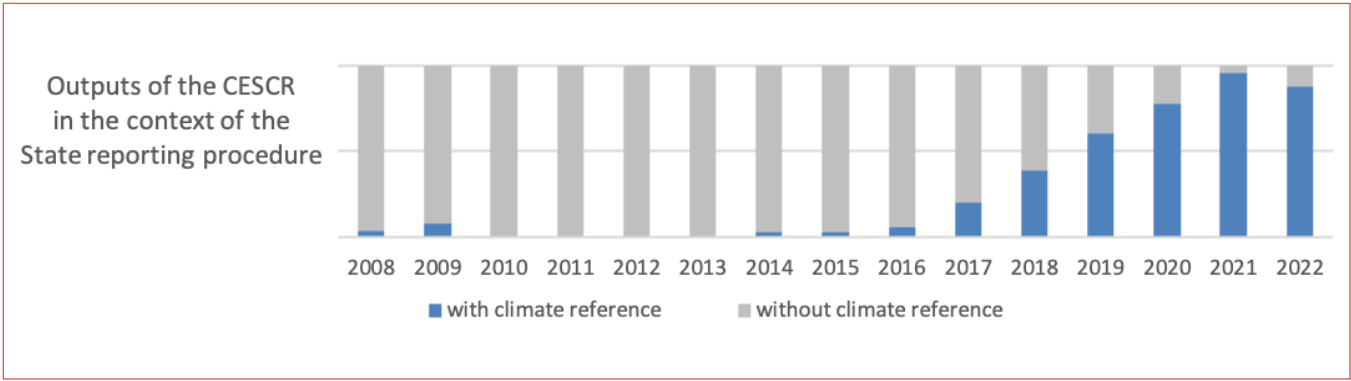
Taking the references to climate change as a proportion of all outputs to States by the relevant HRTBs (the [Committee on Economic, Social and Cultural Rights](#) (CESCR), [the Committee on the Rights of the Child](#) (CRC), the [Committee on the Elimination of Discrimination Against Women](#) (CEDAW), [the Human Rights Committee](#) (CCPR), the [Committee on the Rights of Persons with Disabilities](#) (CRPD), the [Committee on the Elimination of Racial Discrimination](#) (CERD), and the [Committee on Migrant Workers](#) (CMW) — excluding the [Committee on Enforced Disappearances](#) (CED) and the [Committee Against Torture](#) (CAT), whose mandates are less relevant to this topic) through the State reporting procedure in 2022, ninety-five COBs, LOIs, and LOIPRs addressed climate change (out of 184).

This is an increase compared to the level of recommendations issued in 2019 before COVID-19

affected the work of the HRTBs (sixty-one outputs). This level also exceeds the number of issues and recommendations issued in 2020 (fifty-four outputs) and 2021 (sixty-nine outputs). The proportion of climate-related outputs (52 percent of the total number of outputs) issued by the HRTBs in 2022 is on par with 2021 (53 percent). This means that when one of these seven HRTBs monitors an individual State's fulfillment of its existing human rights obligations, the treaty body is now more likely than not to include at least one question or recommendation related to climate change. This represents notable progress, considering that climate-related statements accounted for 38 percent of the total outputs in 2020 and 28 percent in 2019. The sustained attention on climate change demonstrates that the HRTBs recognize that addressing the climate crisis and its harmful impacts on rights is as urgent as ever.

The following graphs show the prevalence of COBs and LOIs/LOIPRs mentioning climate change as compared to all outputs issued annually by individual HRTBs through the State reporting procedure from January 2008 to December 2022. Over the years, the CCPR, the CEDAW, the CESCR, and the CRC, to varying degrees, have increasingly looked at climate change in their State review processes.

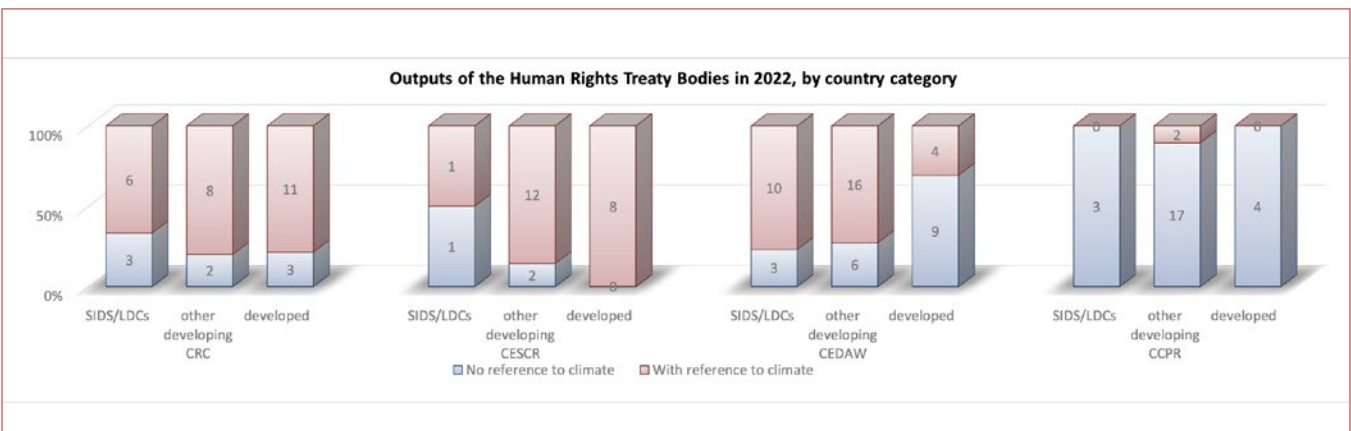




The CEDAW, the CESCR, and the CRC appear to be committed to continuing to address relevant climate change considerations in their work, as they now refer to climate change in the majority of the issues and recommendations raised with States. The other HRTBs are also addressing this topic to a lesser extent, with various trends. For instance, the CCPR first addressed climate change in 2019. While references continued to rise in country reviews in 2020 and 2021, the Committee only issued two relevant outputs in 2022. Remarkably, the CRPD

significantly increased its of climate-related outputs in 2022 compared to previous years (twelve in 2022, compared to eight in total between 2008 and 2021).

Most committees are now addressing matters related to climate change with all categories of States under review — Small Islands Developing States (SIDS), Least Developed Countries (LDCs), other developing States, and developed States — thus addressing both States contributing more to climate

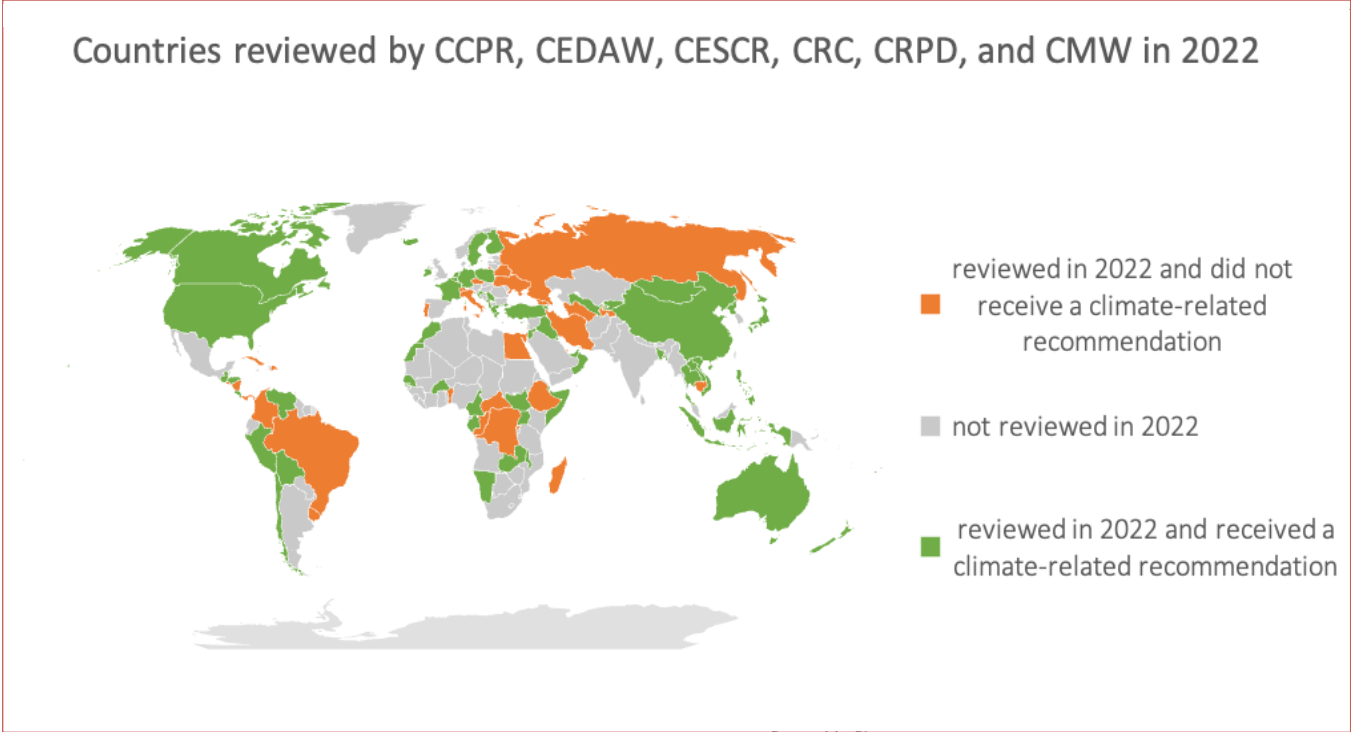


As a consequence of this greater engagement with all categories of countries, most of the committees have addressed different dimensions of climate action more equally in their interactions with States. With regards

to mitigation, the committees have made some clear recommendations to wealthy countries with regards to their obligations to mitigate harms by reducing emissions and tackling fossil fuel extraction. For

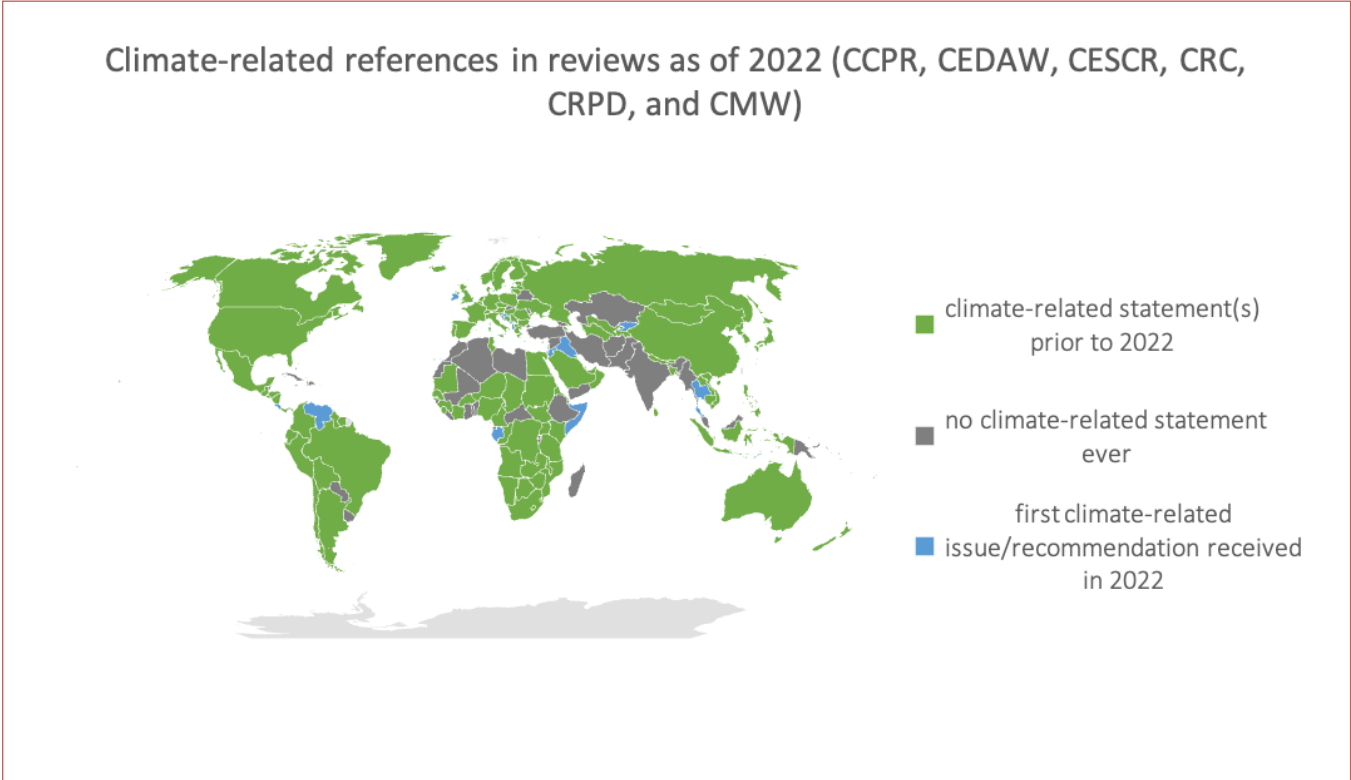
example, the CRC addressed the issue of fossil fuel extraction, investment, and subsidies in its recommendations to Canada, the Netherlands, and Greece. In the CESCR's LOI to Australia and COBs to Italy and Bahrain, the Committee noted the incompatibility between fossil fuel use and State parties' obligations

under the Paris Agreement and highlighted the need to replace fossil fuels with renewable energy. In the CEDAW's outputs, issues of adaptation and disaster risk reduction continue to receive greater attention than mitigation issues.



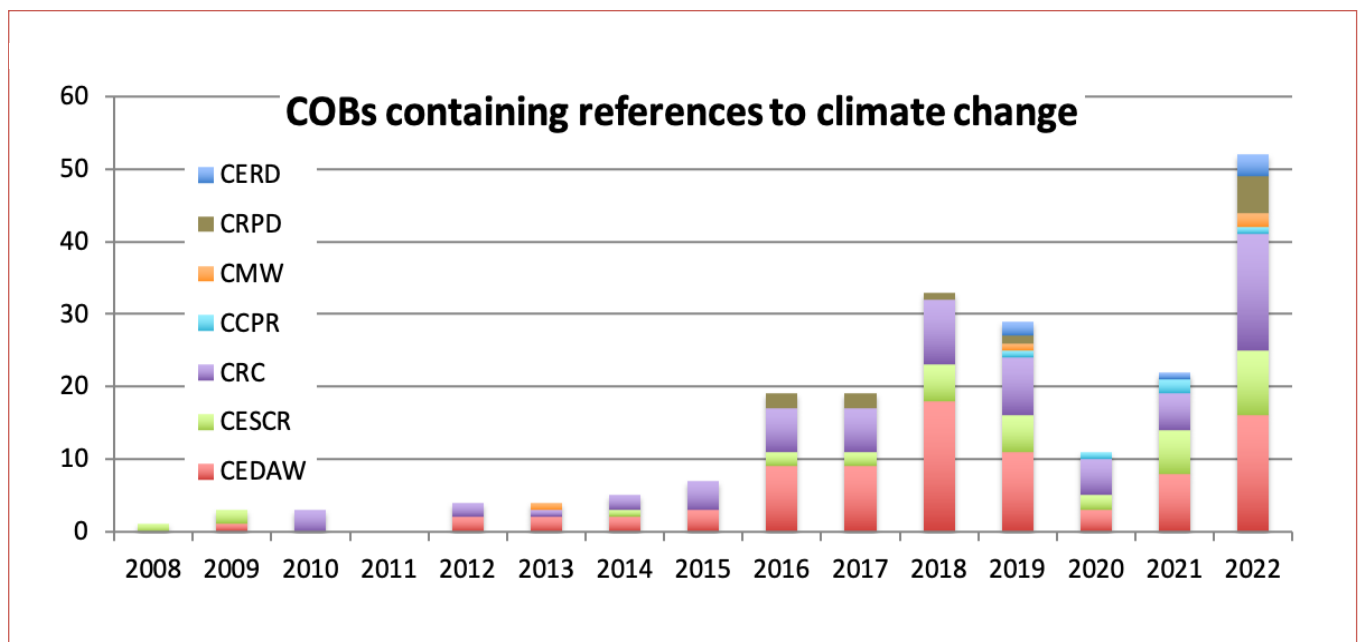
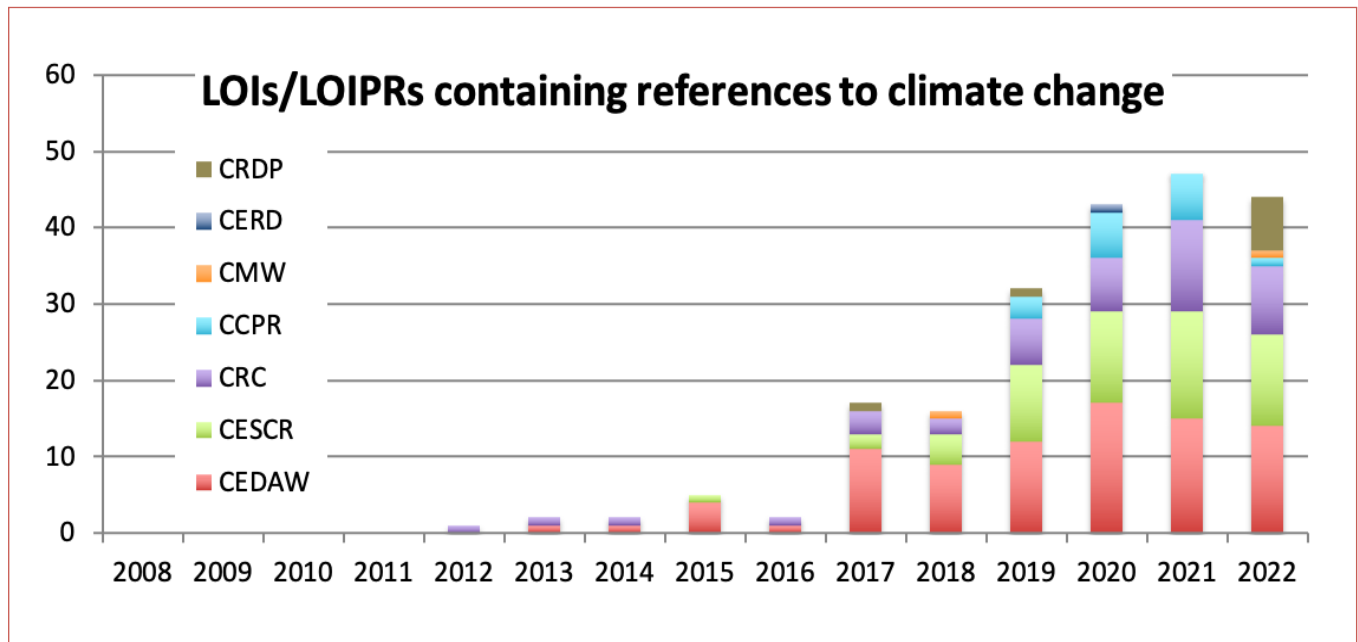
The map below shows those countries that have received at least one recommendation or question related to climate change as of December 2022. Only

forty-five States have never received a climate-related output. Of these, only are developed countries.



Unlike in 2020 and 2021 — but consistent with the previous years — the majority of the references to climate change in 2022 were in the COBs (fifty-two) rather than LOIs or LOIPRs to States (forty-three). This difference can be explained by the fact that

during the COVID-19 pandemic, fewer dialogues with States took place (the stage of the State review procedure during which recommendations are issued), while they resumed in 2022 as the health crisis and related restrictions waned.

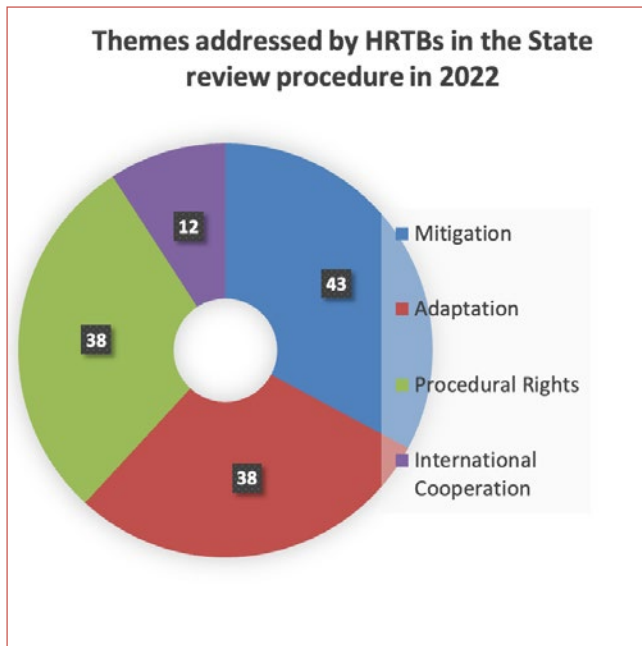


State Reporting Procedure – Climate-Related Themes

In the outputs of the HRTBs under their state reporting procedures, several trends and themes have emerged, many of which were already highlighted in the [2019 Joint Statement on “Human Rights and Climate Change”](#) issued by the [CESCR](#), the [CEDAW](#), the [CRC](#), the [CRPD](#), and the [CMW](#). This section discusses those trends and themes, namely:

- mitigation,
- fossil fuels,
- adaptation and disaster risk reduction,
- loss and damage,
- procedural rights,
- international cooperation,
- business actors,
- rights of people with disabilities, and
- Indigenous Peoples.

The graphs below show the macro themes addressed across the HRTBs’ outputs in 2022.



Human Rights Obligations to Mitigate Climate Change

Over the years, HRTBs have devoted growing attention to mitigation, with increasingly specific questions and recommendations. Effective mitigation is essential to protect fundamental rights, because adaptation and disaster risk reduction are not sufficient to avoid harms. In 2022, forty-two outputs related to the State review process addressed this dimension, compared to



forty in 2021 and twenty-seven in 2020. Developed countries were more likely to receive a recommendation or question on mitigation than SIDS, LDCs, and other developing countries.

The CESCR is the committee that addressed mitigation most frequently (seventeen out of twenty-one climate-related outputs). Similarly to previous years, the Committee referred to specific national climate policies (e.g., COBs to Luxembourg and Serbia) and to States’ nationally determined contributions (NDCs) under the Paris Agreement (e.g., COB to Bahrain, LOIs to Albania, Indonesia, and Kyrgyzstan). For instance, in its COB to Bahrain, the Committee noted that the State party was not on track to meet its NDC under the Paris Agreement or its targets for reducing greenhouse gas (GHG) emissions “due to its oil and gas industry.” In its COB to Italy, the Committee identified concrete measures to reduce GHG emissions, recommending that the State party “[t]ake measures to achieve its nationally determined contributions under the Paris Agreement by, inter alia, increasing taxation of emissions.” In its LOI to Poland, the Committee asked the State party to “provide information on the progress made in reducing per capita greenhouse gas emissions as well as on targets the State party has set for further reduction.”

As in previous years, the CEDAW addressed mitigation to a lesser extent than adaptation and disaster risk reduction, with only nine out of thirty climate-related outputs referring to emissions reduction. In its COB to Armenia, the Committee recommended that the State party “review its climate change and energy policies, take into account the negative effects of climate change on the livelihoods of women, especially rural women.” In its COB to Honduras, the Committee recommended ensuring that mining, climate mitigation and adaptation programs, among other policies, be “only implemented in indigenous territories and protected areas with indigenous women’s effective participation, including full respect for their right to free, prior, and informed consent and the undertaking of adequate consultation processes.”

The CRC continued to address mitigation in many of its outputs referring to climate change. Thirteen out of eighteen COBs addressed this dimension. In its [COB to the Philippines](#), the Committee took note of the inquiry of the [National Human Rights Commission regarding the “Carbon Majors,”](#) and urged the State party to implement its recommendations. In many instances, it recommended that climate and energy policies take into account the views and needs of children (e.g., COBs to Germany, Kuwait, and Iceland). In various outputs, the Committee addressed mitigation of GHG emission in conjunction with measures to address air pollution and its related health effects (e.g., COBs to Vietnam, Uzbekistan, and the Netherlands).

Fossil Fuel Extraction, Exports, and Consumption

Fossil fuels are the main driver of climate change. The Intergovernmental Panel on Climate Change (IPCC) has repeatedly stated that staying below 1.5°C of warming requires immediate action to rapidly phase out fossil fuels. This has been echoed by the International Energy Agency, which [has shown](#) that fossil fuel expansion is incompatible with holding global warming to 1.5°C, and by the UN Secretary General, who [has called](#) on governments to “end our global addiction to fossil fuels.”

HRTBs have been paying increasing attention to fossil fuel production and its impacts on the enjoyment of human rights, related to fossil fuels’ contribution to climate change and adverse impacts on land, water, and air. In 2022, fourteen outputs from the State reporting procedure mentioned fossil fuels, issued by the CRC (six), the CESCR (four), the CEDAW (three), and the CERD (one).

The CEDAW focused its fossil fuel-related recommendations specifically on the impacts of oil and gas exploration on women’s rights. In its COB to Uganda, the Committee recommended undertaking “an assessment of the situation of women affected by the mineral and oil and gas exploration sectors and climate change-related natural disasters, implement gender-responsive programmes for their rehabilitation and for securing their livelihoods and provide information on such measures in its next periodic report.” Similarly, in its COB to Peru, the Committee noted “the adverse impact of mineral, oil extraction and large-scale agricultural industries on rural women’s health and environment, in particular for indigenous, Afro-Peruvian and other Afrodescendent women.” Its COB on Namibia was particularly detailed, as it included recommendations on “[c]onduct[ing] environmental and human rights impact assessments in relation to oil and gas exploration activities in the State party, particularly their impact on women and girls, adopt[ing] appropriate mitigation and protections measures, and ensur[ing] the meaningful participation of women in consultations and decision-making processes in that context,” as well as “[e]nsuring that any decisions on oil and gas exploitation in the Kavango region are subject to the full, prior and informed consent of local communities, including women and girls.” The Committee also noted with concern the lack of information on “[t]he measures taken by the State party to ensure that climate change and energy policies, and specifically the policy on the extraction and export of oil and gas, take into account

the differentiated and disproportionate impact of climate change and environmental degradation on women, especially on rural and indigenous women,” as well as “[t]he insufficient measures taken to ensure that the authorization of oil and gas exploration and development in the Kavango region does not violate the rights of rural women and girls to access to clean water, food and health care.”

In the CESCR’s LOI to Australia and COBs to Italy and Bahrain, the Committee noted the incompatibility between fossil fuel use and State parties’ obligations under the Paris Agreement, and highlighted the need to replace them with renewable energy. In particular, the Committee asked Australia to indicate the “efforts made to reconcile its continuing support of coal mines and coal exports and its obligations under the Covenant, both in the State party and extraterritorially.”

When addressing fossil fuels, the CRC gave attention to the impact that the industry has on children’s rights and climate change. For instance, in its COB to South Sudan, the Committee expressed its concern about the industry’s “potential negative effects on the rights of the child,” “given the State party’s heavy reliance on the exploration and production of oil and gas.” In its COB to the Netherlands, the Committee expressed concern “about reports of the negative impact of the business sector, including in oil extraction and soy production, on children’s rights and the environment” and recommended ensuring legal accountability for business entities and their subsidiaries “operating in or managed from the State party” dealing with oil extraction. In its COB to Canada, the Committee expressed concern about “the disproportionately high carbon footprint of the State party, in particular through investments made in fossil fuels, and the negative impact of climate change and air pollution on children’s health.” In its COBs to Kuwait and Greece, the Committee recommended ensuring “that the impact of climate change on the rights of the child is considered in [the State party’s] energy policy, including in relation to fossil fuel extraction and fossil fuel subsidies.”

In the CERD’s COB to the United States, the Committee remained “concerned at the disproportionate health, socioeconomic and cultural impact of climate change, natural disasters and pollution — the latter caused by extractive and manufacturing industries, such as petrochemical facilities and methanol complexes, as, for instance, in the case of ‘Cancer Alley’ in Louisiana” on racial and ethnic minorities and Indigenous Peoples.

HRTBs can play a very important role in specifying States’ obligations regarding fossil fuels — clarifying that fossil fuel production and export is not compatible with their human rights obligations and further spelling out their duty to stop issuing new extraction licences and building or expanding petrochemical facilities, as well as their duty to phase out current extraction of oil, gas, and coal in line with the best available science. This could be done through the State review process but also in General Comments/Recommendations, given their authoritative nature in the interpretation of the Conventions.

In 2022, the HRTBs raised concerns or questions relating to climate adaptation and resilience in fifty-six outputs. Recommendations and questions on States' measures to assist their population in adapting to climate change and to reduce the risks in case of disasters remain the most common subject of climate-related outputs of the HRTBs. In line with previous years, often the committees refer to specific groups within the population that need particular protection, such as Indigenous Peoples (e.g., CESCR LOI to Australia and CRC LOIPR to New Zealand), ethnic minorities, populations in specific regions (e.g., CRC COB to

Uzbekistan), rural women (e.g., CEDAW COBs to Mongolia and Bolivia), people with disabilities (e.g., CRPD COB to Japan), or more generally, disadvantaged and marginalized individuals and groups (e.g., CESCR LOI to Kyrgyzstan).

As in previous years, the HRTBs were more likely to address recommendations and questions on adaptation to SIDS, LDCs, and other developing States. Forty-eight of out seventy-three statements that mentioned adaptation were addressed to such countries.

Addressing Climate-Induced Loss and Damage

Human rights obligations are an important compass to determine States' duties to provide meaningful remedy for those who are harmed by climate change-related impacts. As the scale and gravity of climate-related impacts increase exponentially across the world, the international community is giving more attention to the question of how to address this loss and damage, including under the UN climate agreements. Human rights-based guidance on how to address loss and damage at the local, national, and international levels is becoming increasingly important. In their 2019 Joint Statement on climate change and human rights, HRTBs explicitly mentioned loss and damage, highlighting that "States must co-operate in good faith in the establishment of global responses addressing climate-related loss and damage suffered by the most vulnerable countries, paying particular attention to safeguarding the rights of those who are at particular risk of climate harm and addressing the devastating impact, including on women, children, persons with disabilities and indigenous peoples." As of December 2022, no LOI/LOIPR or COB has mentioned loss and damage explicitly. However, many of the references to climate impacts and strategies to cope with them are relevant to loss and damage.

As has been demonstrated above, HRTBs often address disaster risk reduction, which is relevant to loss and damage. However, risk reduction mainly focuses on preparing communities and countries to deal with future climate harms, rather than addressing post-disaster human rights harms. Discussion of the latter is growing, for instance in the context of relief and recovery. There is increased attention for specific climate impacts within individual countries, caused by both disasters and slow-onset events, and how governments are dealing with these. The majority of LOIs/LOIPRs and COBs in 2022 implicitly covering loss and damage focus on immediate post-disaster responses, with less attention to long-term recovery and rehabilitation.

Notable exceptions exist, such as the CEDAW's LOI to Timor Leste, which asks the State party to "specify the support provided to women victims of the floods and landslides caused by Cyclone Seroja in April 2021, how the land rights of displaced women are being addressed and which long-term solutions are being proposed to them." While there is a strong focus on climate disasters as compared to slow-onset events (such as sea level-rise, ocean acidification, and desertification), the CESCR started to include references to the latter in several of its LOIs since 2022, which could arguably be interpreted as asking about measures related to both adaptation and loss and damage.

Overall, the CEDAW and the CRC have made the most references related to addressing loss and damage, with a focus on participation in policymaking related to post-disaster management, relief, and recovery. In some cases, specific recommendations aimed to ensure that human rights were respected in post-disaster responses, such as the CEDAW's COB to Saint Kitts and Nevis. The Committee expressed concern "that the State party has not explicitly incorporated a gender perspective into its disaster risk reduction strategies and policies and programmes on climate change," and noted with concern "the lack of provisions to ensure women and girls' special needs, including that the allocation of shelters do not put women at risk of sexual or gender-based violence and that women working in the tourism sector are eligible for social protection in the event of natural disasters affecting their job security."

While references to access to remedy, including substantive redress in the context of climate harms, have yet to be addressed in HRTBs' COBs and LOIs/LOIPRs, the CCPR decision on the Billy et al. v. Australia communication set an important precedent in this direction. This is the first decision by a HRTB that establishes the State party's duty to protect people under its jurisdiction from the impacts of climate change and refers to the obligation to provide effective remedy in this context. The Committee asked Australia to provide full reparation, which included "provid[ing] adequate compensation, to the authors [of the communication] for the harm that they have suffered; engag[ing] in meaningful consultations with the authors' communities in order to conduct needs assessments; continu[ing] its implementation of measures necessary to secure the communities' continued safe existence on their respective islands; and monitor[ing] and review[ing] the effectiveness of the measures implemented and resolv[ing] any deficiencies as soon as practicable." [[CCPR decision no. CCPR/C/135/D/3624/2019](#), paragraph 11 at p. 16] It also added that the State party is also under an obligation to take steps to prevent similar violations in the future. The decision is explained more in detail in the section on "Individual Communications" below.

As climate harms to human rights are increasingly felt by the most vulnerable, many of the human rights dimensions of addressing loss and damage are yet to be explored. The international climate regime is at a crossroads when it comes to addressing loss and damage and could greatly benefit from additional guidance. We recommend that HRTBs provide additional guidance on:

- **State obligations regarding effective, long-term strategies to provide remedy and rehabilitation for communities that are negatively affected by the climate crisis, both for sudden and slow-onset events; and**
- **the extraterritorial nature of these obligations.**

Procedural Rights — Participation and Empowerment

The participation of certain groups (particularly children and women) in climate policy and decision-making continued to be one of the most frequently addressed themes in the outputs of the HRTBs in 2022. Forty-six outputs by the HRTBs mentioned participation in climate responses. The CEDAW and the CRC are the committees that devoted the greatest attention to this dimension (twenty-five and fourteen outputs, respectively).

The CEDAW included participation-related recommendations in almost all the COBs that mentioned climate change, recommending that State parties ensure that women participate in the development of legislation, policies, and programs on climate change, disaster response, and disaster risk reduction (e.g., COBs to Belgium, Lebanon, and Saint Kitts and Nevis). In various outputs, the Committee looked at the participation of specific groups, such as Indigenous or rural women (e.g., COBs to Honduras and Lebanon). In most of its recommendations, the CEDAW recalled its [General Recommendation No.](#)

[37 \(2018\) on the gender-related dimensions of disaster risk reduction in the context of climate change](#), which emphasized the importance of meaningful participation of women in climate policymaking.

The CRC mentioned participation in most of its climate-related COBs (eleven out of eighteen). In many instances, the Committee recommended ensuring that “children’s views and special vulnerabilities are taken into account in developing policies and programs and decision-making concerning climate change mitigation and adaptation” (e.g., COBs to the Philippines, Croatia, Djibouti, and Vietnam). The CRC also devoted specific attention to education, urging State parties to promote children’s awareness of and preparedness for climate change, “including by incorporating the subject into school curricula and teacher training programmes” (e.g., COBs to Iceland and Croatia).

In its only climate-related COB, the CCPR included the participation dimension, recommending that the Philippines “[e]nsure that all projects that affect sustainable development and resilience to climate change are developed with the meaningful consultations with and participation of the affected population, including the indigenous peoples.”

International Cooperation and Climate Finance

In 2022, HRTBs have continued to address the obligation of developed States to provide climate finance, although with less frequency compared to previous years. International cooperation is crucial for effectively mitigating and adapting to climate change, particularly for climate-vulnerable developing countries. In their Joint Statement on climate change and human rights, the HRTBs highlighted the human rights obligations of States concerning climate finance.

In 2022, only four outputs addressed the issue of climate finance and/or cooperation (e.g., CESCR COB to the Czech Republic and LOI to Australia, CRC COBs to Germany and Somalia). The CESCR’s COB to the Czech Republic was particularly detailed. The Committee regretted “that the State party has not reached the 0.7 per cent target for official development assistance of gross national income, as recommended by the United Nations, nor even the 0.33 per cent committed to the European Union.” It also noted that “support to the climate finance instrument is to ideally be provided in addition to official development assistance.” It then recommended

that the State party increase its international official development assistance to meet the target of 0.33 percent, and ultimately 0.7 percent of its gross national income, “while maintaining or increasing its contribution to the Green Climate Fund.” It also encouraged the State party to continue to strengthen its activities in the area of international cooperation. The Committee also asked Australia to report “on the contributions that the State party has committed to and made to the Green Climate Fund.”

In the CRC’s COB to Germany, the Committee encouraged “adopting a child rights-based approach in respect of its trade agreements and development aid policy and programmes, including on climate change.” It also recommended “[u]ndertak[ing] legislative and other measures to uphold its extraterritorial obligations concerning impacts on the environment, including in the context of international cooperation.” In its COB to Somalia, the Committee encouraged the State party to seek “bilateral, multilateral, regional and international cooperation” to implement its recommendations, including on climate change.



States' Obligations to Effectively Regulate Business Actors

HRTBs have reaffirmed multiple times that States have an obligation to effectively regulate the activities of private actors, including business entities, to ensure effective protection against human rights violations linked to business activities (e.g., CESCR, [General Comment No. 24 \(2017\) on State obligations under](#)

[the ICESCR in the context of business activities and CCPR, General Comment No. 36 on Article 6: right to life](#)). This obligation extends to human rights harms outside a State's territory due to the activities of a business entity domiciled within its territory. In the CESCR's GC, the Committee explained that "[t]he extraterritorial obligation to protect requires States parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control."

Five HRTBs explained the application of this obligation in their Joint Statement on human rights and climate change, affirming that "States must regulate private actors, including by holding them accountable for harm they generate both domestically and extraterritorially. States should also discontinue financial incentives or investments in activities and infrastructure that are not consistent with low greenhouse gas emissions pathways, whether undertaken by public or private actors, as a mitigation measure to prevent further damage and risk."

In 2022, HRTBs continued to address the issue of private actors' contribution to environmental degradation through their activities. Three LOIs/LOIPRs and eight COBs issued by the CESCR, the CRC, and the CERD mentioned this dimension. This is a slight decrease from 2021, when fifteen outputs looked at private actors in the context of climate change.

In the CRC's COB to the Netherlands, the Committee expressed its concerns on the "negative impact of the business sector, including in oil extraction and soy production, on children's rights and the environment," as well as "the lack of legal accountability for businesses that have violated children's rights. It requested that the State party "ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory, including companies that deal with the extraction of oil...in relation to international and national human rights, labour, environmental and other standards."

In the CESCR's COB to Bahrain, the Committee expressed "particular concern at reports on human rights impact assessment of business activities conducted in the oil and gas industry," recommending that the State party adopt frameworks to require "business entities to exercise human rights due diligence in their business activities at home and abroad and ensure that businesses entities operating in the State party and those domiciled under its jurisdiction and acting

abroad, irrespective of whether they are privately or State-owned, are held accountable for economic, social and cultural rights violations for which they are responsible, and that victims of such violations have access to effective remedies."

Only one output mentioned the issue of investments in fossil fuels. In the CRC's COB to Canada, the Committee expressed concern "about the disproportionately high carbon footprint of the State party, in particular through investments made in fossil fuels," but did not include a specific recommendation on this front, other than urging Canada to "reduce greenhouse gas emissions in line with the State party's international commitments."

Rights of Persons with Disabilities

The CRPD has addressed climate change to varying degrees. For instance, while it made six climate-related recommendations between 2016 and 2019, it issued none in 2020 and 2021. In 2022, it released five COBs and seven LOIs/LOIPRs related to climate change. Many outputs relate to the need to include persons with disabilities in policymaking related to climate change and disaster risk reduction (e.g., COBs to Singapore and Laos, and most of them look at the need to consider the needs of persons with disabilities in plans related to prevention, evacuation, protection, etc., including in accordance with the Sendai Framework on for Disaster Risk Reduction 2015–2030 and the Paris Agreement (e.g., LOI to the Maldives and COBs to Bangladesh, Singapore, and China).

In 2022, the CRPD did not look merely at adaptation and disaster risk reduction, but also highlighted the need for inclusive climate mitigation policies. In its COB to Japan, the Committee expressed concerns regarding "the insufficient consultations with organizations of persons with disabilities to plan, implement, monitor and evaluate processes of disaster risk reduction and climate change mitigation." In its LOI to the United Arab Emirates, the CRPD requested information regarding "measures to ensure the inclusiveness and accessibility of preparedness and disaster risk reduction management strategies and climate change mitigation strategies for all persons with disabilities, in particular persons who are deaf or hard of hearing or deafblind, and persons with visual impairments."

The CRPD also announced the [preparation of a General Comment on article 11](#) of the ICRPD, which lays out the obligations of States with regards to the need to take "all necessary measures to ensure

the protection and safety of persons with disabilities in situations of risk, including situations of...natural disasters.” The CRPD called for written submission in early 2023 and announced the convening of a Day of General Discussion on the topic in March 2023. This GC will offer a unique opportunity for the CRPD to further articulate the scope of the obligations of States under the ICPRD to protect the rights of persons with disabilities as protected under other provisions of the Convention. Article 11 is explicitly relevant to climate change not only through the reference to natural disasters but also more generally by focusing on situations of risk. Article 11 also refers explicitly to relevant obligations of the States under international law, thereby stressing the need for harmonious interpretation of the CRPD in light of other international legal

obligations. The CRPD released a [draft outline for the GC](#) structured along four main sections, addressing: normative content, States' obligations under article 11, persons with disabilities disproportionately affected and experiencing particular disadvantages in situations of risk, and interrelation with other articles of the Convention.

Several outputs by other HRTBs also took into account persons with disabilities. The CEDAW, the CESCR, and the CRC asked State parties about the extent to which persons with disabilities — among other groups — are included in adaptation and disaster risk reduction policies (e.g., CEDAW LOI to Timor Leste, CESCR LOI to Kyrgyzstan, CRC LOIPR to Mauritius).



Indigenous Peoples

The CCPR, the CEDAW, the CERD, the CESCR, and the CRC continued to highlight the impacts that climate change is having on Indigenous Peoples, the importance of consulting with them about climate change policies, and the need for protective measures.

In the CRC's LOI to Australia, the Committee asked the State party to "report on the measures taken to address the adverse effects of climate change on the enjoyment of economic, social and cultural rights, particularly by indigenous peoples, people living in disaster-prone areas and other disadvantaged and marginalized individuals and groups."

The CEDAW addressed the issue of Indigenous women's participation in climate-related policies (e.g., LOI to Timor Leste), and the impacts of climate change on rural and Indigenous women (e.g., COB to Honduras). It also looked at the adverse impact of fossil fuel activities. In its COB to Namibia, the Committee expressed concern about the absence of information on the "measures taken by the State party to ensure that climate change and energy policies, and specifically the policy on the extraction and export of oil and gas, take into account the differentiated and disproportionate impact of climate change and environmental degradation on women, especially on rural and indigenous women." In its COB to Peru, the Committee noted with concern "[t]he adverse impact of mineral, oil extraction and large-scale agricultural industries on rural women's health and environment, in particular for indigenous, Afro-Peruvian and other Afrodescendent women." The Committee recommended that Honduras "[e]nsure that economic activities, including...extractive, mining, climate mitigation and adaptation programs...are only implemented in indigenous territories and protected areas with indigenous women's effective participation, including full respect for their right to free, prior, and informed consent and the undertaking of adequate consultation processes." In most of the climate-related questions or recommendations that mentioned Indigenous Peoples rights, reference was made to land policies, in addition to mentions of climate change mitigation, adaptation, and disaster risk reduction.

The CCPR recommended that the Philippines ensure that "all projects that affect sustainable development and resilience to climate change are developed with the meaningful consultations with and participation of the affected population, including the indigenous peoples."



In the CESCR's COB to Uzbekistan, the Committee recommended that "natural resources, including forest resources, are used in accordance with a fair and equitable conservation policy, in consultation with the communities concerned," including Indigenous Peoples.

The CRC asked New Zealand to provide information on the extent to which "the special vulnerabilities and needs and views of children, in particular Maori and Pasifika children and children living in low-income settings, are integrated into policies or programmes addressing the issues of climate change and disaster risk management."

The CERD issued three climate-related outputs, focusing on the impact of climate change and extractive activities, including climate change, on Indigenous Peoples and ethnic minorities. In its COB to the United States, the Committee addressed the "disproportionate health, socioeconomic and cultural impact of climate change, natural disasters and pollution — the latter caused by extractive and manufacturing industries, such as petrochemical facilities and methanol complexes, as, for instance, in the case of 'Cancer Alley' in Louisiana...on racial and ethnic minorities and indigenous peoples." In its COB to France, the Committee recommended taking measures, in consultation with the affected Indigenous Peoples on the overseas territories, to remedy the health and environmental consequences of extractive activities as well as mitigation measures for the effects of climate change on their territories and resources, in order to protect their way of living and subsistence. Finally, the Committee recommended that Cameroon "[a]dopt measures to mitigate the impact of climate change on the lands, territories and resources of indigenous peoples with a view to protecting their customs and traditional ways of life, while preventing intercommunal conflicts."



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Individual Communications

In September 2022, the CCPR [published its decision](#) in the case [Billy et al. v. Australia](#) (3624/2019). This communication was the third submitted to any HRTB claiming that a State or several States have failed to uphold their obligations in the context of climate change-related harms. The previous communications resulted in the decision by the CCPR in [Teitiota v. New Zealand](#) (2019) and five parallel decisions by the CRC in [Sacchi et al. v. Argentina](#), [Brazil](#), [France](#), [Germany](#), and [Turkey](#) (2021).

The Torres Strait petitioners in [Billy et al. v. Australia](#) claimed that their islands would become uninhabitable in 10–15 years and that Australia had violated their rights under articles 2, 6, 17, and 27 by failing “to adopt mitigation measures to reduce greenhouse gas emissions and cease the promotion of fossil fuel extraction and use” as well as by failing “to implement an adaptation programme to ensure the long-term habitability of the islands.” The petitioners also claimed violations of the rights of Mr. Billy’s six children under article 24 (1), read alone and in conjunction with articles 6, 17, and 27.

The Committee found that the State party had violated articles 17 and 27 by failing to take adequate adaptation measures. It asked Australia to provide full reparation, which included “provid[ing] adequate compensation, to the authors for the harm that they have suffered; engag[ing] in meaningful consultations with the authors’ communities in order to conduct needs assessments; continu[ing] its implementation of measures necessary to secure the communities’

continued safe existence on their respective islands; and monitor[ing] and review[ing] the effectiveness of the measures implemented and resolv[ing] any deficiencies as soon as practicable.” [[CCPR decision no. CCPR/C/135/D/3624/2019](#), paragraph 11 at p. 16] It added that the State party is also under an obligation to take steps to prevent similar violations in the future.

In separate opinions, five Committee members expressed their conviction that Australia had also violated article 6, and that the Committee should have also recognized that the State party’s failure to reduce emissions breached its obligations under the ICCPR.

A more extended analysis is available in the annex dedicated to the CCPR. This case is groundbreaking, as it is the first decision by a human rights treaty body that establishes the State party’s duty to protect people under its jurisdiction from the impacts of climate change and refers to the obligation to provide effective remedy.

In general, an increasing number of cases are being brought to courts and tribunals arguing that inadequate State action on climate change breaches the State’s human rights obligations at the national and regional levels. The jurisprudence and work of the HRTBs can inform the interpretation of human rights norms concerning climate change in those cases before the national and regional courts and tribunals. A number of cases and communications brought to national and international courts and institutions reference authoritative guidance provided by the HRTBs regarding States’ obligations in the context of climate change.



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Global Initiative for Economic, Social & Cultural Rights

Committee on the Rights of the Child (CRC)

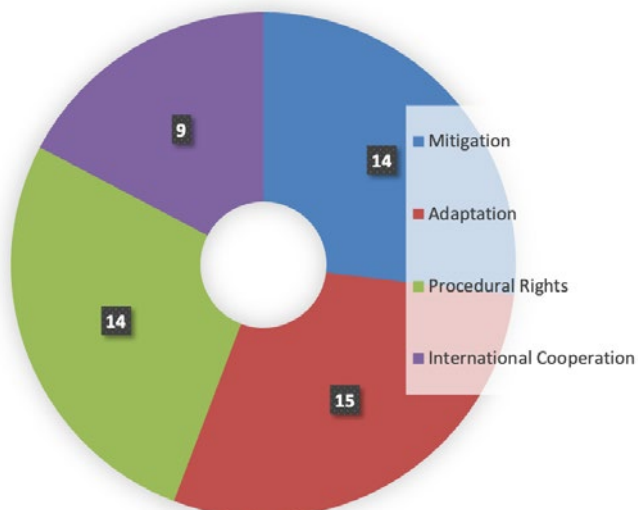
Synthesis of Statements on Climate Change

2023 Update

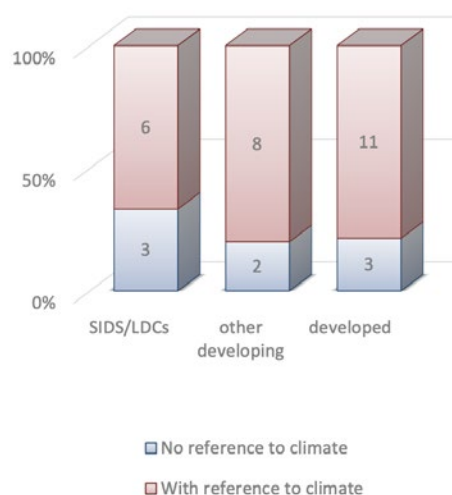


This note reviews the outputs of the CRC related to climate change in 2022 and complements our [previous note](#) dedicated to such outputs up to 2021 (bit.ly/CRCclimate2022).

Themes addressed by the CRC in the State review procedure in 2022



Outputs of the CRC in 2022, by country category



Over the years, the Committee on the Rights of the Child (CRC) has increasingly raised concerns about the impacts of climate change on children's rights in its State reporting procedure and its General Comments (GCs) and thematic work. Even in 2020 and 2021, during the COVID-19 pandemic and the move to virtual work, the Committee continued to highlight climate change concerns in its questions and recommendations to States. In 2022, it sustained its attention to various climate-related dimensions. In a [Joint Statement](#) with the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Representative of the Secretary-General on Violence against Children, UNICEF, and the United Nations Office on Drugs and Crime, it listed "extreme climate-related crisis" among the main challenges to the realization of children's rights and the main causes of the "increasing failure to uphold...human rights law obligations around the world."

In 2022, the CRC referred to climate change in twenty-five State review processes — in either Concluding Observations (COBs), Lists of Issues (LOIs), or Lists of Issues Prior to Reporting (LOIPRs) — out of a total of thirty-three outputs.

In line with 2020 and 2021, the CRC addressed climate change in reviews of developed States more frequently than in reviews of Small Islands Developing States (SIDS), Least Developed Countries (LDCs), and other developing countries.

The Committee followed the trend from previous years of paying great attention to issues of **adaptation**. Themes that were frequently addressed included participation and empowerment of children in climate change policymaking and initiatives (fourteen references) and mitigation (fourteen outputs). In a few instances, the Committee focused on specific groups of children, including Sami children (e.g., LOI to Finland) and Māori and Pasifika children (e.g., LOIPR to New Zealand). The Committee valued data collection as an important tool to identify specific needs and impacts. For instance, it recommended that Canada "[c]ollect data on the impact of climate change on children and provide information on the issue in its next periodic report," and recommended that Somalia and Djibouti "collect disaggregated data identifying the types of risk faced by children to the occurrence of a variety of disasters in order to formulate policies, frameworks and agreements accordingly."

The Committee continued to pay attention to States' obligations to mitigate climate change. In 2022,

mitigation was raised in thirteen COBs and one LOI/LOIPR. In its COB to Germany, the Committee noted with appreciation the adoption of the climate action law, but argued that plans for the reduction of emissions "are not ambitious enough" and measures to implement several sectoral carbon dioxide reduction plans are insufficient. The Committee recommended that the State party reduce its greenhouse gas (GHG) emissions in line with its international commitments, and that national policies and programs on climate change be implemented "in accordance with the principles of the Convention and taking into account children's needs and views."

The Committee continued to devote attention to **private actors'** contribution to environmental harm, often also in relation to fossil fuel production, although the number of relevant outputs in 2022 declined (four in 2022 versus eleven in 2021). In its COB to the Netherlands, the Committee recommended that the State party "[c]ontinue to examine and adapt its legislative framework (civil, criminal and administrative) to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory, including companies that deal with the extraction of oil...in relation to international and national human rights, labour, environmental and other standards." In its COB to Canada, the Committee recommended establishing "a clear regulatory framework for the industries operating in the State party and abroad to identify, prevent, mitigate and account for activities that negatively affect human rights or endanger children's rights, in particular risks posed by fossil fuel production."

Three COBs address the issue of **extraterritorial obligations** (ETOs). In its COB to Germany, the Committee recommended that the State party "[u]ndertake legislative and other measures to uphold its extraterritorial obligations concerning impacts on the environment, including in the context of international cooperation." In its COB to Canada, the Committee welcomed the creation of an "Ombudsperson for Responsible Enterprise," but recommended that the State party "[e]stablish a clear regulatory framework for the industries operating in the State party and abroad to identify, prevent, mitigate and account for activities that negatively affect human rights or endanger children's rights, in particular risks posed by fossil fuel production." In its COB to Greece, the Committee recommended "[h]armoniz[ing] its current climate mitigation policy...with its obligation to protect the rights of children, in particular the rights

to health, food and an adequate standard of living, both in Greece and abroad.” While not mentioning ETOs explicitly in its COB to the Philippines, the Committee recommended implementing the [recommendations](#) of the Commission on Human Rights regarding the “Carbon Majors” inquiry, which addressed the responsibility for climate-induced harms of the forty-seven biggest fossil fuel and cement companies.

Six outputs mentioned **fossil fuels**. In its COB to Greece, the Committee recommended that the State party “[c]onsider the impact of climate change on the rights of the child in its energy policy, including in relation to fossil fuel extraction and fossil fuels subsidies.” Similarly, in its COB to Canada, the Committee expressed its concern about the State party’s “disproportionately high carbon footprint,” “in particular through investments made in fossil fuels.”

The Committee’s Working Group on children’s rights and the environment, which was revived in 2021, continued to work in 2022. This is an internal group of five members of the Committee focusing on this topic to ensure that it receives the appropriate attention in the Committee’s work.

The Committee also continued to work toward its **upcoming [General Comment No. 26 on children’s rights and the environment with a special focus on climate change](#)**, conducting a series of consultations with children, State parties, and experts from relevant fields throughout 2022. In December 2022, the Committee issued the draft of this GC. The draft identifies four key concepts — sustainable development, intergenerational equity and future generations, best available science, and the precautionary principle — and unpacks the rights under the Convention that relate to the environment, including climate change. The draft GC then addresses the right to a clean, healthy, and sustainable environment, stating that this is “implicit in, and directly linked to, in particular, the rights to life, survival and development (art. 6), the highest

attainable standard of health, including ‘taking into consideration the dangers and risks of environmental pollution’ (art. 24), an adequate standard of living (art. 27) and education, including the development of respect for the natural environment (art. 29).” It further states that a safe climate is one of the substantive elements of the right to a clean, healthy, and sustainable environment. In this regard, the draft GC outlines a series of concrete actions that States should take immediately, including “[p]has[ing] out the use of coal, oil and natural gas by investing in renewable energy, energy storage and energy efficiency to address the climate crisis.”

The draft GC then addresses general obligations of States — the obligation to respect, protect, and fulfill; heightened obligations; access to information; children’s rights impact assessments; children’s rights and the business sector; and international cooperation — addressing the climate dimension across all of them. A specific section is devoted to climate change, where the Committee unpacks States’ obligations in more detail, including in relation to mitigation, adaptation, and climate finance, as well as the duty to adequately regulate private actors. In this section, the draft GC reiterates that, under the Convention, States have extraterritorial obligations and identifies measures that States shall take to respect children’s rights across all the above areas.

The Committee invited additional input through written submissions in order to finalize this GC during the course of 2023. The GC will provide a timely opportunity for a UN human rights mechanism to provide States with guidance about the scope of their obligations to protect human rights from environment-related threats. This GC offers a chance for the Committee to build upon its many recommendations issued to States with regards to the rights of children and the environment and to develop a comprehensive interpretative statement on the implementation of the Convention.

Committee on the Elimination of Discrimination Against Women (CEDAW)

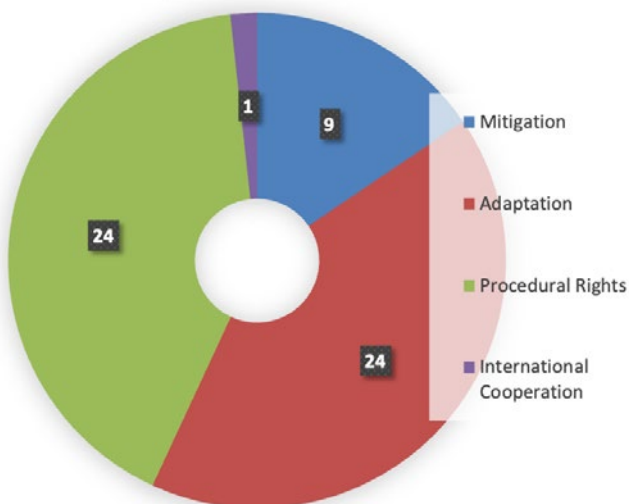
Synthesis of Statements on Climate Change

2023 Update

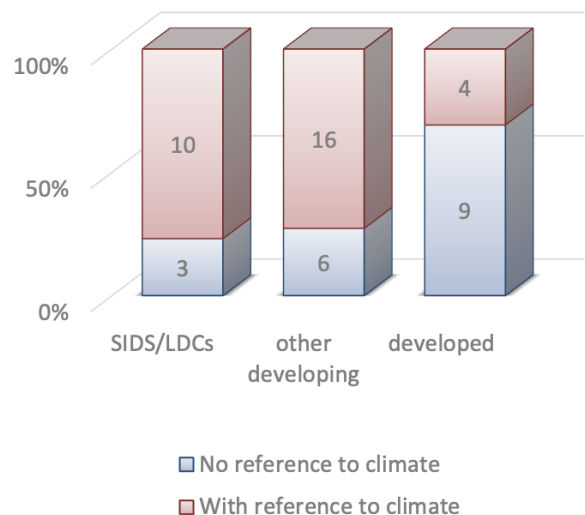


This note reviews the outputs of the CEDAW related to climate change in 2022 and complements [our previous note](#) dedicated to such outputs up to 2021 (bit.ly/HRTBsclimate2022).

Themes addressed by the CEDAW in the State review procedure in 2022



Outputs of the CEDAW in 2022, by country category



In line with 2020 and 2021, the Committee on the Elimination of Discrimination Against Women (CEDAW) was the committee that issued the highest number of climate-related outputs in its State reporting procedure work in 2022 — including Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs). It made climate-related recommendations or asked climate-related questions to more than half of the States that it considered (thirty out of forty-nine). Twenty-three out of the thirty climate-related recommendations or questions addressed developed countries.

Disaster risk reduction and adaptation were mentioned in all climate-related outputs. When addressing this dimension, the Committee emphasized the need for greater participation of women in processes, programs, and policymaking (e.g., COBs to Belgium and Uganda), often recalling the CEDAW's [General Recommendation No. 37 \(2018\) on the gender-related dimensions of disaster risk reduction in the context of climate change](#). The CEDAW also regularly focused on the importance of integrating a gender perspective into the State party's framework for climate change adaptation and disaster risk reduction (e.g., COB to Saint Kitts and Nevis, LOI to France). Increasingly, the CEDAW also refers to **addressing the aftermath of climate disasters**, not only in immediate post-disaster response, relief, and recovery (e.g., COB to Saint Kitts and Nevis and COB to Costa Rica), but also longer-term rehabilitation (e.g., COB to Uganda and COB to Belgium) and specific strategies in that context (e.g., LOI to Timor Leste).

The Committee continued to give greater attention to disaster risk reduction and adaptation instead of **mitigation** policies, which the Committee only referred to in nine outputs. This is in line with the previous years' trend, when very few outputs referred to mitigation.

The Committee issued two strong statements on **fossil fuels extraction**. In its COB to Uganda, the Committee urged the State party to “[s]wiftly undertake an assessment of the situation of women affected by the mineral and oil and gas exploration sectors and climate change-related natural disasters, implement gender-responsive programmes for their rehabilitation and for securing their livelihoods and provide information on such measures in its next periodic report.” The Committee expressed concerns about Namibia's policies regarding the extraction of fossil fuels, especially with regard to the lack of information on “(a) [t]he measures taken by the State party to ensure that climate change and energy policies, and specifically the policy on the extraction and export of oil and gas, take into account the differentiated and disproportionate impact of climate change and environmental degradation on women, especially on rural and indigenous women; (b) [t]he insufficient measures taken to ensure that the authorization of oil and gas exploration and development in the Kavango region does not violate the rights of rural women and girls to access to clean water, food and health care.” It thus recommended environmental and human rights impact assessments in relation to oil and gas exploration activities in Namibia, and ensuring that “any decisions on oil and gas exploitation in the Kavango region are subject to the full, prior and informed consent of local communities, including women and girls.”

CEDAW's General Recommendation No. 39 (2022) on the Rights of Indigenous Women and Girls

In October 2022, the CEDAW adopted its [General Recommendation No. 39 \(2022\) on the rights of Indigenous women and girls](#). The General Recommendation (GR) aims to provide guidance to States on the measures they should take to ensure full compliance with their obligations under the Convention to respect and protect the rights of Indigenous women and girls. The GR also addresses climate change. It highlights that “Indigenous women and girls...are heavily affected by existential threats connected to climate change, environmental degradation, the loss of biodiversity and barriers in gaining access to food and water security,” and that “[e]xtractive activities carried out by business enterprises and other industrial, financial, public and private actors often have a devastating impact on the environment, air, land, waterways, oceans, territories and natural resources of Indigenous

Peoples and may infringe the rights of Indigenous women and girls.” The GR states that climate change is relevant to a wide range of rights, including the right to effective participation in political and public life; the right to culture; the rights to land, territories, and natural resources; and the rights to food, water, and seeds. It also affirms that the right to a clean, healthy, and sustainable environment “encompasses a safe and stable climate.”

The GR contains specific recommendations on climate across the various chapters. It recommends “[e]nsur[ing] that economic activities, including those related to...extraction, mining, climate mitigation and adaptation programmes, and conservation projects are only implemented in Indigenous territories and protected areas with the effective participation of Indigenous women, including full respect for their right to free, prior and informed consent and the adequate consultation processes.” The Committee recommends that State parties “[r]equire the free, prior and informed consent of Indigenous women and girls before authorizing economic, development, extractive and climate mitigation and adaptation projects on their lands and territories and affecting their natural resources” and “design free, prior and informed consent protocols to guide these processes.”

The GR also contains various recommendations related to the right to a clean, healthy, and sustainable environment, to ensure:

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

The Committee has referenced its General Recommendation No. 37 several times in its State reviews when discussing the gender dimensions of disaster risk reduction in a changing climate. It can therefore be expected that the Committee will increasingly build on the new GC when issuing future questions and recommendations.



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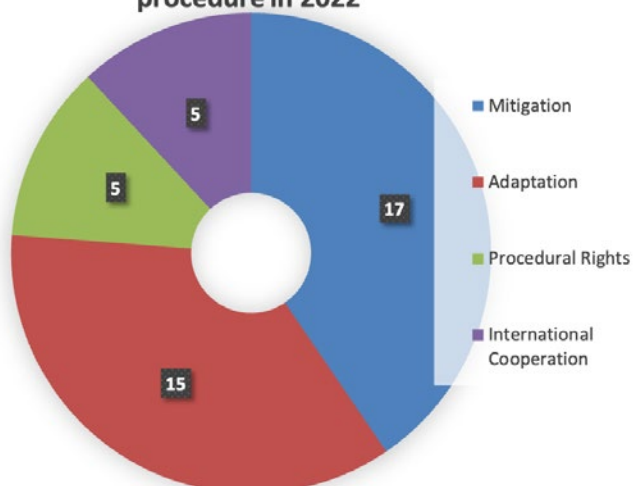
Committee on Economic, Social and Cultural Rights (CESCR)

Synthesis of Statements on Climate Change

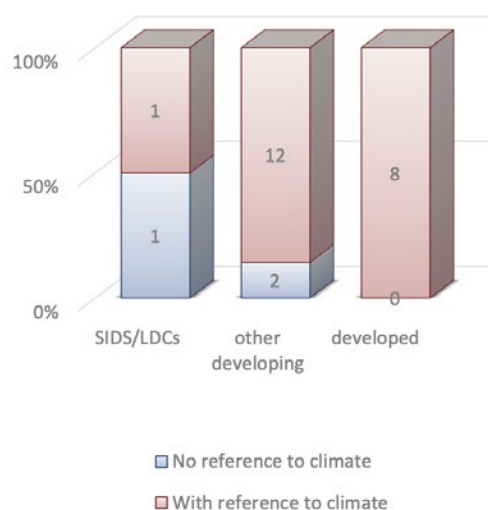


This note reviews the outputs of the CESCR related to climate change in 2022 and complements our [previous note](#) dedicated to such outputs up to 2021 (bit.ly/CESCRclimate2022).

Themes addressed by the CESCR in the State review procedure in 2022



Outputs of the CESCR in 2022, by country category



In 2022, the Committee on Economic, Social and Cultural Rights (CESCR) was the committee that referenced climate change most often in its outputs delivered through the State review process — in either Concluding Observations (COBs), Lists of Issues (LOIs), or Lists of Issues Prior to Reporting (LOIPRs). It made recommendations and asked questions addressing climate change to twenty-one of the twenty-seven States it reviewed in 2022, and 38 percent of those outputs were made to developed States.

The Committee addressed State parties' **mitigation** policies in seventeen outputs. In line with previous years, the CESCR frequently referred to parties' commitments under the Paris Agreement (e.g., COBs to Bahrain and Italy and LOIs to Indonesia and Kyrgyzstan). In its COB to Bahrain, the Committee noted that the State party was not on track to meet its nationally determined contribution (NDC) under the Paris Agreement or its targets for reduction in greenhouse gas (GHG) emissions "due to its oil and gas industry." In a few outputs, the Committee also recalled its 2018 Statement on climate change and the Covenant (e.g., COBs to Serbia, Czech Republic, and Tajikistan), as well as the 2019 Joint Statement by the CESCR, the CEDAW, the CRC, the CRPD, and the CMW (e.g., COB to Luxembourg). In its COB to Italy, the Committee identified concrete measures to reduce GHG emissions, recommending that the State party "[t]ake measures to achieve its nationally determined contributions under the Paris Agreement by, inter alia, increasing taxation of emissions." In its LOI to Poland, the Committee asked to "provide information on the progress made in reducing per capita greenhouse gas emissions as well as on targets the State party has set for further reduction."

The Committee addressed **adaptation** in fifteen statements. In many outputs, it referred to national adaptation plans (NAPs) under the Paris Agreement. For instance, the Committee asked Poland, Honduras, the Philippines, and Iceland whether they had developed or planned to develop a NAP. In some instances, the Committee also requested information on "[w]hich institutions are tasked with the elaboration and implementation of climate change adaptation measures and policies for slow-onset impacts in different areas, such as agriculture, housing and health and how the coordination among institutions responsible for disaster preparedness and management is ensured" (e.g., LOIs to Poland, Cyprus, and the Philippines).

Two outputs referred to the importance of aligning **climate finance** with obligations under the Covenant. In its COB to the Czech Republic, the Committee noted that "support to the climate finance instrument is to ideally be provided in addition to official development assistance," and recommended that the State party "step up its efforts to increase its international official development assistance first to meet the target of 0.33 per cent, then ultimately to 0.7 per cent of its gross national income, while maintaining or increasing its contribution to the Green Climate Fund." In its LOI to Australia, the Committee asked the State party to provide information on "the contributions that the State party has committed to and made to the Green Climate Fund."

The Committee addressed **fossil fuels** in four outputs (e.g., LOIs to Australia and Iran and COBs to Bahrain and Italy), including the financing of related activities by public and private actors. In two of them (Italy and Australia), the Committee also addressed the State parties' extraterritorial obligations. In its COB to Luxembourg, the Committee expressed concern about public and private financial institutions' investments into fossil fuel activities and other carbon intensive sectors, as well as the lack of transparency and regulation of the financial sector. The Committee recommended that the State party take the necessary measures to decrease public and private investments into fossil fuels and other activities that are incompatible with the need to reduce GHG emissions, including through regulation and transparency. In its COB to Italy, the Committee expressed the concern "that current emission-reducing policies may not be sufficient for the State party to observe its obligations under the Paris Agreement, and that unsustainable practices have an adverse impact on climate change beyond the State party's borders," and it recommended making "all efforts to replace fossil fuel in its energy mix, including by increasing renewable energy as an alternative." The Committee also asked Australia about "measures taken to limit the use of fossil fuels and to replace them with renewable energy and the efforts made to reconcile its continuing support of coal mines and coal exports and its obligations under the Covenant, both in the State party and extraterritorially."

In 2022, the Committee continued to work toward the General Comment on Sustainable Development and the International Covenant on Economic

Social and Cultural Rights. The Committee hosted various consultations with relevant stakeholders, and prepared an Issue Paper to identify the themes that were perceived as relevant to sustainable development

in the context of economic, social, and cultural rights. A Day of General Discussion was held in February 2023 to inform the drafting of the draft of this General Comment (GC).

CESCR's General Comment No. 26 (2022) on Land and Economic, Social and Cultural Rights

In 2022, the CESCR published its [General Comment No. 26 \(2022\) on land and economic, social and cultural rights](#), which devoted a section to climate change and referred to related issues throughout the text. The GC recognized the impact of climate change on access to land and other related rights. It also devoted particular attention to mitigation and adaptation measures, stressing that cooperation mechanisms for such measures “shall provide and implement a robust set of environmental and social safeguards to ensure that no project negatively affects human rights and the environment and to guarantee access to information and meaningful consultation with those affected by such projects,” as well as to guarantee the free, prior, and informed consent of Indigenous Peoples.

The GC also looked at extraterritorial obligations, stating that “[t]he extraterritorial obligation to respect requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the rights under the Covenant in land-related contexts outside their territories,” as well as “to take specific measures to prevent their domestic and international policies and actions, such as trade, investment, energy, agricultural, development and climate change-mitigation policies, from interfering, directly or indirectly, with the enjoyment of human rights.”

The GC added that parties “shall ensure that the elaboration, conclusion, interpretation and implementation of international agreements, including but not limited to the areas of trade, investment, finance, development cooperation and climate change, are consistent with their obligations under the Covenant and do not have an adverse effect on access to productive resources in other countries.”

In general, with regard to mitigation, the GC stated that mitigation measures, “such as large-scale renewable energy projects or reforestation measures,” might undermine the rights enshrined in the Covenant when not adequately managed. It also added that “[m]itigation policies should lead to absolute emissions reductions through phasing out fossil fuel production and use.” This GC will be particularly relevant to the GC on Sustainable Development, which is being drafted. It might also increase the attention that the Committee will give to land in the context of climate change when issuing questions and recommendations to States.

Human Rights Committee (CCPR)

Synthesis of Statements on Climate Change

2023 Update



This note reviews the outputs of the CCPR related to climate change in 2022 and complements our [previous note](https://bit.ly/CCPRclimate2022) dedicated to such outputs up to 2021 (bit.ly/CCPRclimate2022).

In 2019, the Human Rights Committee (CCPR) addressed climate change in its State review process for the first time. Since then, the Committee has steadily increased the number of Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs) addressing climate change. Between 2019 and 2021, the number of inputs jumped from four in 2019 to seven in 2020 and eight in 2021. In 2022 however, there was a sharp decline, with only one LOI and one COB referring explicitly to climate change. This is despite the fact that the Committee issued the same number of outputs through the State reporting process in 2022 as it did in 2021.

In its COB to the Philippines, the Committee welcomed the State party's policy measures to address climate change, but regretted "the lack of information on measures taken or envisaged to implement the recommendations of the Commission on Human Rights in its [2022 report of the National Inquiry on Climate Change](#), concerning the impact of climate change on the human rights and the role of business corporations." It urged the Philippines to implement the recommendations of the Commission on Human Rights, "such as enacting laws that impose legal liabilities for corporate or business-related human rights abuses." It also recommended that "all projects that affect sustainable development and resilience to climate change are developed with the meaningful consultations with and participation of the affected population, including the indigenous peoples."

In its LOI to Brazil, the Committee requested information "about the efforts made to prevent and mitigate the effects of climate change and environmental degradation...including on the right to life." It also asked about relevant legal and institutional frameworks in place to prevent and mitigate the effects of climate change, as well as "about the efforts made to reduce carbon emissions, including further investment in sustainable energy sources."

The CCPR is the only HRTB that significantly reduced the attention paid to issues related to climate change through the State review process in 2022. This trend is surprising given that the CCPR had addressed climate change and environmental harms in its [General comment No. 36 on article 6: right to life](#) in 2018, which raised expectations that these issues would be addressed more systematically in its work.

Individual Communications

In September 2022, the CCPR published its decision in the case [Billy et al. v. Australia](#) (3624/2019). The Torres Strait petitioners claimed that their islands would become uninhabitable in 10–15 years. They argued that Australia had violated their rights under article 2 (right to non-discrimination), read alone and in conjunction with articles 6 (right to life), 17 (right to home, private life, and family life) and 27 (right to culture); and articles 6, 17 and 27, each read alone, by failing "to implement an adaptation programme to ensure the long-term habitability of the islands," as well as by failing "to adopt mitigation measures to reduce greenhouse gas emissions and cease the promotion of fossil fuel extraction and use." The petitioners also claimed violations of the rights of Mr. Billy's six children under article 24 (1) (rights of the child), read alone and in conjunction with articles 6, 17, and 27.

The Committee considered the case admissible for the claims under articles 6, 17, 24 (1), and 27, but not under article 2. It further explicitly stated that it was not precluded from examining the State party's actions and omissions related to mitigation measures. The Committee did not find that article 6 of the Covenant had been violated, as "the time frame of 10 to 15 years, as suggested by the authors, could allow for intervening acts by the State party to take affirmative measures to protect and, where necessary, relocate the alleged victims." It further noted that the information provided by the State party indicated that Australia was taking adaptation measures "to reduce existing vulnerabilities and build resilience to climate change-related harms in the Islands." The Committee stated that it was "not in a position to conclude that the adaptation measures taken by the State party would be insufficient so as to represent a direct threat to the authors' right to life with dignity."

The Committee found that Australia violated articles 17 and 27 by failing to take adequate, timely adaptation measures to protect the authors' home, private life and family, as well as "the authors' collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources." The Committee did not deem it necessary to examine the claim under article 24 (1), as it had already found a violation of articles 17 and 27.

The Committee asked Australia to provide full reparation, which included “provid[ing] adequate compensation, to the authors for the harm that they have suffered; engag[ing] in meaningful consultations with the authors’ communities in order to conduct needs assessments; continu[ing] its implementation of measures necessary to secure the communities’ continued safe existence on their respective islands; and monitor[ing] and review[ing] the effectiveness of the measures implemented and resolv[ing] any deficiencies as soon as practicable.” It added that the State party is also under an obligation to take steps to prevent similar violations in the future. The CCPR further asked Australia to provide information within 180 days regarding the measures taken to respect the Committee’s decision.

This case is groundbreaking, as it is the first decision by a human rights treaty body that establishes the State party’s duty to protect people under its jurisdiction from the impacts of climate change and refers to the obligation to provide effective remedy. At the same time, the Committee decided not to address the second part of the claim, relating to violations arising from the State party’s failure to reduce effectively GHG emissions.

In their individual opinion, Committee member Duncan Laki Muhumuza stated that the State party did violate article 6, as it “failed to prevent a foreseeable loss of life from the impact of climate change,” and did not take “any measures to reduce greenhouse gas emissions and cease the promotion of fossil fuel extraction and use, which continue to affect the authors and other islanders, endangering their livelihood.” Similarly, Committee member Gentian Zyberi’s concurring opinion stressed that “the Committee should have linked the State obligation to “protect the authors’ collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and

sea resources” more clearly to mitigation measures, based on national commitments and international cooperation — as it is mitigation actions which are aimed at addressing the root cause of the problem and not just remedy the effects. If no effective mitigation actions are undertaken in a timely manner, adaptation will eventually become impossible.” A similar point was raised in the partially dissenting opinion by Committee members Arif Bulkan, Marcia V. J. Kran, and Vasilka Sancin. They claimed that “the ‘real and foreseeable risk’ standard employed by the majority interprets article 6 restrictively,” while the evidence provided by the claimants did provide a “reasonably foreseeable threat,” constituting a violation of article 6.



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Committee on the Elimination of Racial Discrimination (CERD)

Synthesis of Statements on Climate Change



This note reviews the outputs of the CERD related to climate change in 2022 and complements our [previous note](#) dedicated to such outputs up to 2021 (bit.ly/CERDclimate2022).

While the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) does not refer to the environment or to natural resources, the Committee on the Elimination of Racial Discrimination (CERD) highlighted in its [General Recommendation No. 34 \(2011\) regarding Racial discrimination against people of African descent](#) that the Convention protects the right of people of African descent to exercise, individually or collectively, “the right to property and to the use, conservation and protection of lands traditionally occupied by them and to natural resources in cases where their ways of life and culture are linked to their utilization of lands and resources.” In its [General Recommendation No. 23 on the rights of indigenous peoples](#), the Committee reaffirmed the “rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources,” as well as the obligation of the States to “take steps to return those lands and territories where [Indigenous Peoples] have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent.” In 2019, the Committee began to specifically consider the linkages between climate change and States’ obligations under the Convention.

In 2022, the CERD issued three Concluding Observations (COBs) mentioning climate change, out of twenty-six total outputs. Its COB to the United States addressed in detail the issue of oil and gas leases and climate change in the State party. The Committee expressed concern “at the disproportionate health, socioeconomic and cultural impact of climate change, natural disasters and pollution — the latter caused by extractive and manufacturing industries, such as petrochemical facilities and methanol complexes, as, for instance, in the case of ‘Cancer Alley’ in Louisiana, and by radioactive and toxic waste — on racial and ethnic minorities and indigenous peoples.”

The Committee recommended that the United States take adequate measure to “undertake prompt, independent and thorough investigations into all cases of environmentally polluting activities affecting the rights of racial and ethnic minorities and indigenous peoples, bring those responsible to account and provide effective remedies for the victims,” as well as “consider adopting moratoriums on the authorization of new heavy industry facilities and the expansion of existing ones, such as petrochemical plants.” It further recommended that the State party protect historical sites of cultural significance for ethnic minorities

and Indigenous Peoples communities “from harm by extractive and manufacturing industries.” It expressed concern about the adverse effects of economic activities by US-registered transnational corporations on the rights of minority groups and Indigenous Peoples in other countries, and recommended that the United States take appropriate measures to prevent such situations.

In its COB to France, the Committee recommended taking measures, in consultation with the affected Indigenous Peoples in overseas territories, to remedy the health and environmental consequences of extractive activities, as well as mitigation measures for the effects of climate change on their territories and resources, in order to protect their way of living and subsistence.

Finally, the Committee recommended that Cameroon “[a]dopt measures to mitigate the impact of climate change on the lands, territories and resources of indigenous peoples with a view to protecting their customs and traditional ways of life, while preventing intercommunal conflicts.”

The CERD is now working on its General Recommendation No. 37 on racial discrimination and the right to health under article 5 (e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination. In August 2022, it held a [Day of General Discussion](#), which kickstarted the process. While the [concept note](#) circulated ahead of the discussion does not mention climate change or the environment, this General Recommendation (GR) might provide the opportunity to address these dimensions. This has been highlighted by submissions from civil society in response to the CERD’s call for inputs to inform the General Recommendation No. 37.

In particular, a [joint submission](#) from several civil society organizations stressed how the damaging and adverse impacts of climate change on health and access to healthcare facilities are especially felt by communities that are already suffering from racial and economic discrimination. This joint submission encourages the CERD to seize the occasion presented by the upcoming GR to outline States’ obligations regarding the right to health in the climate context. [Other organizations](#) have encouraged the CERD to adopt an intersectionality approach, which takes the climate crisis into account, when addressing racial discrimination and the right to health in General Recommendation No. 37.

Other United Nations entities have already recognized the disproportionate health impacts of climate change on racial minorities. The Working Group of Experts on People of African Descent, when commending the CERD for its decision to issue a GR on the right to health and racial discrimination, clearly stated that “[i]n the light of the climate crisis, the impact of environmental racism and of climate-related disasters on communities of African descent, it is clear that the right to health and the right to environmental justice are inextricably linked” ([Report no. A/HRC/48/78](#), paragraph 71 at p. 15). In its [Climate Change 2022: Impacts, Adaptation and Vulnerability report](#), the Intergovernmental Panel on Climate Change (IPCC) found that, when it comes to climate-related risks to health, “specific types of individuals are identified as

having higher levels of vulnerability and exposure to climate-related health hazards,” including people in conditions that often affect racial minorities such as “impoverish[ment], undernourish[ment],...insecure housing in polluted or heavily degraded environments, work in unsafe conditions,...limited education and/or...poor access to health and social infrastructure” [WGII, Chapter 7, 7.1.7.2 at pp. 1050–1051]. The World Health Organization (WHO) has also [long been aware](#) of the disproportionate health impacts of climate on ethnic minorities, and stressed in its [2021 WHO Health and Climate Change Survey Report](#) how the climate crisis will increase the “risk of a health emergency exacerbating existing inequalities (e.g. in...race).”



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As governments and intergovernmental organizations have recognized, climate change has adverse impacts on a wide range of human rights. Consequently, existing human rights obligations defined under legally binding treaties must inform climate action. These obligations require that climate policies effectively protect the rights of those most affected by the climate crisis, including by averting harm and preventing further threats through mitigation and the effective regulation of private actors. They also require that the design of these policies builds on the principles of non-discrimination and meaningful public participation. A growing number of national, regional, and international courts are being asked to review the compatibility of States' climate policies in the context of these human rights obligations.

Human rights treaty bodies (HRTBs) — established to monitor the implementation of the United Nations human rights treaties — have a critical role to play to inform decision makers' and other actors' understanding of the scope of these human rights obligations in the context of climate change. During the past decade, these bodies have provided many valuable recommendations to States, illustrating the relevance of international human rights obligations in driving ambitious and just climate policies.

This Synthesis Note reviews the outputs adopted by HRTBs in 2022 with regard to climate change, complementing our [2022 Synthesis Note](#), which provided an overview of all relevant HRTBs outputs adopted from 2020 to 2021, and our [2020 Update](#) reviewing developments of the previous year. This note describes the important role that the HRTBs have continued to play in 2022 to guide and inform States responses to climate change and also highlights some of the pressing issues that could benefit from more proactive engagement by HRTBs in the future so as to further articulate States' existing human rights obligations related to key dimensions of climate policies.

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