Human Rights & Climate Change Working Group

Respecting, promoting, and protecting human rights in climate action through the Global Stocktake

Submission on views on the approach to the consideration of outputs component of the first Global Stocktake, February 2023.

1. Introduction

The first Global Stocktake (GST) is happening in the context of intersecting crises that are harming human rights across the globe. Climate impacts are occurring at an unprecedented scale and scientific reports confirm that we are far off track to keep global warming below 1.5°C, a limit that is already too high to really protect people and ecosystems. As thirty years of negotiations under the UNFCCC failed to address major drivers of the climate crisis such as fossil fuel production, and the Paris Agreement up until today has not delivered meaningful action, **the GST is a crucial opportunity to change course from the dangerous direction we are headed**, jeopardizing human rights and biodiversity at massive scale.

The GST should effectively **cut across the interlinked areas of climate change and human rights** to effectively inform the change that is needed towards achieving the long-term goals of the Paris Agreement. The changing climate is already leading to substantial damages and irreversible losses, adversely affecting people's health and food security worldwide, causing displacement, undermining hard-fought efforts to reduce poverty and advance gender equality, affecting livelihoods, and costing lives. Climate change is also a threat to democracy by increasing the risk of violence, including gender-based violence, especially against women and girls, and violent conflicts among communities.[1] At the same time, **the Intergovernmental Panel on Climate Change (IPCC) recognizes the effectiveness of human rights-based climate action**, e.g. that participatory planning and decision-making involving vulnerable communities throughout design and implementation can make for more effective and sustainable adaptation that helps alleviate social inequities and ensure climate-resilient development while avoiding maladaptation; that supporting Indigenous Peoples' self-determination, and integrating Indigenous Peoples' rights and respectfully recognizing Indigenous knowledge increases the prospects of climate-resilient development; that secure land rights, especially for Indigenous Peoples, as well as local communities and women, lead to improved climate action; and that reducing gender inequalities can reduce vulnerability to climate change.

The guarantee of human rights is crucial in the context of increasing climate ambition, from mitigation to adaptation, loss and damage, and climate finance[2]. The effective integration of human rights considerations across all these areas of climate action requires it to be grounded on **existing human rights obligations and principles**, such as the right to access to information and participation, the protection of environmental human rights defenders, the rights of Indigenous Peoples, the meaningful, ethical, and equitable co-production of knowledge between Indigenous

[1] IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, K. Mintenbeck, M. Tignor, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem (eds.)]. In: Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press. In Press.

[2] Center for International Environmental Law, EarthRights International, FIAN International, Heinrich Böll Foundation Washington DC, IBON International, Indigenous Environmental Network, and International Work Group for Indigenous Affairs (2022), "Submission to the First Global Stocktake: Human Rights-Based Climate Action".

and non-Indigenous knowledge systems, the rights to life, land, food, water, health, and to a clean, healthy and sustainable environment.

The GST must assess the comprehensive implementation of the Paris Agreement including, as stated in its preamble, **whether activities implemented by Parties respect, promote, and consider human rights**, including "...the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and peoples in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity". Equally important is the consideration of access to information and public participation, poverty eradication, the right to food, ecosystem integrity, the right to a clean, healthy and sustainable environment, and a just transition for workers and communities[3]. During the technical phase of the GST, the importance of these aspects has been highlighted at multiple occasions. For example, most of the expert panels of the first Technical Dialogue (TD1.1) highlighted the need for a participatory approach and the necessity to include relevant groups - women, youth, Indigenous groups or local communities- to ensure efficient transition processes.[4]

These important discussions should now effectively feed into the consideration of outputs of the GST, and lead to **concrete political commitments to better integrate human rights protection and promotion across climate action,** as described in this submission. The GST is an important opportunity to turn the Paris commitment into action and increased ambition, by providing clear guidance to Parties on how to integrate human rights in the design and implementation of climate action, including NDCs and other relevant planning documents and processes related to the implementation of the Paris Agreement.

2. Process of considerations of outputs

This submission **endorses the recommendations by Climate Action Network International[5] regarding the structure, process, and events for the consideration of the outputs component (GST-CO)**:

The GST-CO should aim to provide a clear process for building a common and ambitious vision for its outcome among Parties and Non-Party Stakeholders. A clear, inclusive, participatory, deliberative, science-led, and facilitative process can ensure robust and ambitious GST-CO outcomes that fully build on and fairly reflect the findings of the technical assessment component and that put people and their rights at the center.

- The GST-CO must allow and support the **participation of observers** at every stage and at each meeting, including all workshops and high-level events as well as negotiations under

[3] CIEL (2022), "Promoting Human Rights in Climate Action: A Global Stocktake Informed by Human Rights".
[4] Co-facilitator of the Technical Dialogue (2022). "Summary report on the first meeting of the technical dialogue of the first global stocktake under the Paris Agreement" [GST.TD.2022.SummaryReport.1]
[5] Climate Action Network International, February 2023 submission on views on the approach to the consideration of outputs component of the first global stocktake.

the joint contact group. The GST-CO must ensure especially that human rights experts, Indigenous Peoples, environmental and human rights defenders, and representatives of communities on the frontlines of the climate crisis can participate in all meetings and facilitate and lead some of the dialogues.

- **The GST is not a space meant to allow the representation of corporate interests,** especially those aligned with perpetuating business-as-usual emissions. When corporate interests are entering the GST space, conflict of interest must be avoided, especially by requiring a declaration of conflict of interest by all private actors attending the GST events in advance, as well as confirming the participants of the events 3 to 4 weeks before the event.
- The GST must be **science and local knowledge-driven**, based on institutions such as the IPCC, respectful recognition of Indigenous Peoples' knowledge, and lived experiences of youth, local communities, women, farmers, and most affected peoples including racial minorities, people with disabilities, and LGBTQIA+ people.
- The high-level committee of the COP27 and COP28 Presidencies and SB Chairs should ensure timely access to information and present **a work plan for the GST-CO** well in advance of potential high-level events to Parties at SB58 in June. The high-level events under the GST-CO should commence immediately after the end of SB58 until the end of COP28 (June to December 2023).

3. Human rights in the GST outcomes

The considerations of the outputs component must culminate in GST outcomes that provide clarity on **how Parties will get on track to limit warming to a maximum of 1.5°C using a gender-responsive and human rights-based approach**, including the rights of Indigenous Peoples, with concrete and action-oriented commitments. Hence, the considerations of the outputs component of the GST should focus on discussions that will culminate in the following commitments:

1. Full and equitable fossil fuel phase-out

The GST must result in a concrete commitment by all Parties to **a full and equitable phase-out of all fossil fuels** in line with the objective to keep warming to below 1.5°C and Parties' human rights obligations and **exclude any reference that opens the door for dangerous technologies** that directly or indirectly prolong dependence on fossil fuels, are unproven, bet on overshoot, rely on offsets, or come with high human rights and environmental risks.

The IPCC warns that exceeding 1.5°C in warming, even temporarily, will result in severe and irreversible adverse impacts, limiting the capacity for adaptation, causing massive loss and damage, and severely threatening human rights. IPCC reports have repeatedly affirmed that fossil fuels are the principal source of greenhouse gas emissions and that swift and steep reduction in

those emissions is necessary to avert climate catastrophe.[6] Fossil fuel projects also directly cause human rights violations related to land seizures such as forced evictions, human health impacts, massive contamination of air and water resources, and destruction of biodiversity, and therefore violate the recently universally recognized right to a clean, healthy and sustainable environment, and commit human rights abuses against environmental defenders, among others[7].

In particular, child rights and the rights of future generations are being violated through fossil fuel projects as these projects use up the resources and harm the environment that belongs to children and future generations. **A quick, human-rights consistent and equitable phase-out of fossil fuel production and usage with a just transition to renewable energy sources is therefore imperative to meeting the long term goals of the Paris Agreement, as well as complying with States' human rights obligations[8].** The continuous provision of public finance and other financial incentives and subsidies for the continued extraction and use of fossil fuels and products derived from it further directs scarce public resources away from policies aimed at realizing economic and social rights while postponing the just transition away from fossil fuels urgently needed to meet the goals of the Paris Agreement.[9] Therefore the GST must result in a concrete commitment by all Parties to **a full and equitable phase-out of all fossil fuels** in line with the imperative of keeping the increase of temperatures below 1.5°C and Parties' human rights obligations

Reliance on **false solutions, including unproven risky technologies and offsets, that prolong dependence on fossil fuels** and postpone deep decarbonization and the transition to 100% renewable energy and reduction of energy consumption threaten human rights directly because of their negative impacts on the chances of keeping global temperature rise below 1.5°C. The IPCC has found that overshooting 1.5°C, even temporarily, will result in irreversible impacts, including damage to ecosystems and greater loss of human life, resulting in attendant human rights breaches.[10] As noted above, the most critical way to reduce emissions and minimize temperature rise is to rapidly end reliance on fossil fuels. Therefore, technologies such as carbon capture and storage (CCS)—designed to extend the operation of polluting facilities and prolong the use of fossil fuels—and geoengineering approaches, such as solar radiation modification (management) (SRM) and large-scale technological carbon dioxide removal (CDR)— which purport to reduce temperature rise or its effects, gambling on overshoot and return—increase the likelihood of temperature surpassing 1.5°C, with foreseeable catastrophic impacts on human rights and the environment. Additionally, many of these false solutions create specific human rights risks. Solar geoengineering technologies or Solar Radiation Management (SRM), aiming to change the Earth's radiative forcing, could cause acid rain and ozone depletion, disrupt storm and rainfall patterns

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[6] IPCC, 2022: Climate Change 2022: Mitigation of Climate Change. Contribution of Working Group III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [P.R. Shukla, J. Skea, R. Slade, A. Al Khourdajie, R. van Diemen, D. McCollum, M. Pathak, S. Some, P. Vyas, R. Fradera, M. Belkacemi, A. Hasija, G. Lisboa, S. Luz, J. Malley, (eds.)]. Cambridge University Press, Cambridge, UK and New York, NY, USA. doi: 10.1017/9781009157926

[7] 350.org (2020), "Human Rights Abuses by Fossil Fuel Companies".

[8] Amnesty International (2021). "Stop burning our rights! What governments and corporations must do to protect humanity from the climate crisis."

[9] Human Rights Watch (2021), "Q&A on Fossil Fuel Subsidies", June 2021, online.

[10] CIEL (2022). "IPCC Unsummarized.Unmasking Clear Warnings on Overshoot, Techno-fixes, and the Urgency of Climate Justice.

across large regions, and reduce the growth of crops and CO2-absorbing plants. There is a further danger of 'termination shock': if SRM were deployed but then stopped, intentionally, accidentally, or because of human error or political changes, it would cause temperature to rapidly increase to levels worse than at the starting point.[11] Technological Carbon Dioxide Removal (CDR) comes with its own risks and uncertainties, including the threat of significant adverse impacts on rights due to energy and resource input requirements, which can trigger displacement and violations of the right to food and related rights, among other harms. Carbon Capture and Storage (CCS) introduces new environmental, health, and safety risks to communities on the fencelines of polluting facilities where carbon capture is implemented and on the frontlines of CCS infrastructure, such as CO2 pipelines, and more fundamentally, prolongs the use of fossil fuels, limiting chances of keeping warming below 1.5°C.[12]

Based on States' human rights obligations, including the guarantee of the right to a clean, healthy and sustainable environment, and the precautionary principle, Parties have to implement available and existing measures to mitigate greenhouse gas emissions instead of relying on dangerous and speculative "carbon management" and geoengineering.[13] As part of its commitment to a full phase-out of fossil fuels, the GST outcome must therefore **exclude any reference that would open the door to these dangerous technologies and false solutions that threaten human rights**.

2. Implementation of a human rights-based and intersectional approach

The GST must result in a concrete commitment by and guidance for Parties to **implement a human rights-based and intersectional approach** in all relevant planning documents and processes related to the implementation of the Paris Agreement, including the design and implementation of Nationally Determined Contributions (NDCs) and National Adaptation Plans (NAPs), including by **using existing guidance and increasing synergies** with human rights institutions and mechanisms.

As recognized by the Paris Agreement, "Parties should, when taking action to address climate change, **respect, promote, and consider their respective obligations on human rights,** the right to health, the rights of Indigenous Peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity". Related to that, the Paris Agreement also recognizes the importance of sustainable development and eradication of poverty, safeguarding food security and ending hunger, a just transition and the creation of decent work, the integrity of all ecosystems, and the importance of education, training, public awareness, public

[11] CIEL, ETC group, Heinrich Böll Foundation & Third World Network (2022). "Response to Questionnaire on the impact of new technologies for climate protection on the enjoyment of human rights".
[12] CIEL (2019). "Fuel to the Fire. How Geoengineering Threatens to Entrench Fossil Fuels and Accelerate the Climate Crisis."
[13] CIEL, ETC group, Heinrich Böll Foundation & Third World Network (2022). "Response to Questionnaire on the impact of new technologies for climate protection on the enjoyment of human rights".

participation and public access to information. Moreover, in the COP27 Sharm el-Sheik implementation plan[14] Parties reiterated the need to respect, promote and consider their respective obligations related to the recently universally recognized[15] **human right to a clean, sustainable and healthy environment**.

To realize these commitments and respect human rights obligations, Parties must **ensure a rights-based and intersectional design and implementation of all relevant planning documents and processes related to the implementation of the Paris Agreement,** including Nationally Determined Contributions (NDCs) and National Adaptation Plans (NAPs), with a strong focus on public participation, the rights of communities and groups to be consulted about decisions affecting them and the rights of Indigenous Peoples' to self-determination and Free, Prior and Informed Consent (FPIC). Although an increasing number of NDCs make explicit reference to human rights, the majority of these do not elaborate on how human rights were actually considered in planning and will be considered in the implementation[16]. A meaningful implementation of human rights obligations in the context of climate action requires that they are addressed throughout all the policy stages of NDCs: the planning process should entail effective and inclusive public participation, as well as transparency and communication about how human rights informed the preparation of NDCs, and **human rights obligations should be integral to the implementation, monitoring, and evaluation of NDCs**. Moreover, human rights should not only be parameters to be respected but express objectives that should be integrated into effective climate action to ensure the realization of the full range of internationally recognized human rights. Concrete guidance on how to do so has been developed by UN human rights institutions, civil society organizations, and other experts (see below). Parties, therefore, have no excuse for not honoring their commitments, and can also rely on the UN and other human rights institutions and organizations to support building capacity to prepare and implement human rights-based NDCs. It is important for the UNFCCC and Parties more specifically to create synergies with human rights institutions, promoting policy coherence to build on existing work to align climate action with human rights obligations, thereby making it more effective and coherent.

The GST must result in a concrete commitment by and guidance for Parties to **implement a human rights-based and intersectional approach** in all relevant planning documents and processes related to the implementation of the Paris Agreement, including the design and implementation of Nationally Determined Contributions (NDCs) and National Adaptation Plans (NAPs). To develop this commitment into concrete guidance and action, Parties can build on existing guidance and increase synergies with human rights institutions and mechanisms such as the UN Human Rights Office (OHCHR)[17], the UN Special Rapporteur on climate change and human rights[18], regional and National Human Rights Institutions.

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[14] 1/CP27, "Sharm el-Sheikh Implementation Plan".
[15] UN General Assembly declares access to clean and healthy environment a universal human right (28 July 2022)
[16] Center for International Environmental Law (CIEL), Office of the High Commissioner for Human Rights (OHCHR) & Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). "Integrating Human Rights in Nationally Determined Contributions (NDCs). Toolkit for Practitioners".
[17] OHCHR and Climate Change
[18] Special Rapporteur on Climate Change

Links to existing guidance:

- Integrating Human Rights in Nationally Determined Contributions (NDCs): toolkit for practitioners (CIEL, OHCHR & GIZ, 2022)
- The CLARA Guide to Nationally Determined Contributions (CLARA, 2023)
- Recognition of Indigenous Peoples in Nationally Determined Contributions (IWGIA, 2022)
- Gender Equality in National Climate Action: Planning for Gender-Responsive Nationally Determined Contributions (UNDP, 2017)
- Child-sensitive climate policies for every child: How NDCs can be more inclusive and rights-based for children and young people and ensure child-critical social services are climate and disaster resilient (UNICEF, 2022)
- Climate Emergency. Scope of Inter-American Human Rights Obligations. RESOLUTION 3/2021 (IACHR, 2021)
- Human Rights in the Process of National Adaptation Planning: Insights from a Review of Submitted NAPs (SEI, 2022)

3. Enhanced public participation and protection of environmental defenders

The GST must result in a recognition of the importance of meaningful public participation for the realization of effective climate policies and **a commitment to enhancing public participation** in climate policy-making at all levels, including through **the protection of environmental defenders**.

Access to information and public participation are key to achieving the objectives of the Paris Agreement[19]. The internationally recognized human rights principle that all people have a right to participate in and have access to information relating to decision-making processes that affect their lives and well-being is key to ensuring that everyone has a voice in climate responses and that no segment of society is left behind. As the report of Working Group II of the IPCC Sixth Assessment confirmed, solving the climate crisis is not only a matter of what needs to be done but also how it should be done: **climate action should be participatory and inclusive of the people in the most vulnerable situations**[20].

As the climate crisis worsens, more people have been taking to the streets to demand participation and action from their governments. Youth climate change activists have played a leading role in organizing and mobilizing the public, especially in urban areas to demand climate justice. At the same time, frontline and Indigenous communities have been leading growing protests not only demanding climate justice but also demanding the protection of their rights, opposing those industries that have caused and are causing the climate crisis, and demanding to be recognized as a key actor in shaping a truly just transition. Climate-related protests are only set to grow as the

[19] Paris Agreement, Article 12.

[20] IPCC, 2022: Summary for Policymakers [H.-O. Pörtner, D.C. Roberts, E.S. Poloczanska, K. Mintenbeck, M. Tignor, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem (eds.)]. In: Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press. In Press.

climate crisis intensifies. As a response governments are increasingly using repressive measures that augment governments' powers and affect people's rights[21]. In many countries around the world, climate protests and protests opposing climate-damaging projects and policies are being heavily restricted and even criminalized[22].

Worldwide, environmental human rights defenders working on climate justice are increasingly targeted with violence, harassment, and criminalization. On average one land and environmental defender has been killed every two days since 2012[23]. Civil society has also been reporting the growing use of criminalization, the enactment of legislation to prevent freedom of assembly, and SLAPPs (strategic litigation against public participation lawsuits) to deter dissent and attack groups and communities opposing climate-damaging industries and infrastructure[24]. Violence and repression are especially true for Indigenous and local communities defenders - women being particularly targeted. Many climate-damaging projects and false climate solutions are located in Indigenous lands or cross through Indigenous territories or other territories on which local small-scale food producers depend for securing their livelihood, where the pattern of failures in the consultation processes, repression, and silencing of opposition movements continues and endangers the lives and livelihoods of already vulnerable populations.

The GST should recognize the link between the climate crisis and the growing violence and repression against land and environmental defenders. The response to climate change will not be complete if the defenders and the communities on the frontlines are paying with their lives and integrity as the price for demanding climate justice. The GST should take into account how the climate crisis - and misguided policy responses and false solutions - are contributing to the growing violence against defenders and activists, and reinforce the commitment of parties to guarantee access to information and public participation without discrimination, including that of Indigenous Peoples, in climate policy-making at all levels. Particularly the **guidance on implementing a human rights-based and intersectional approach in climate action** that results from the GST should **include specific provisions on how parties should protect the rights of environmental defenders**, and how to guarantee access to information, public participation, and respect for Indigenous Peoples' right to FPIC.

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[21] A/HRC/41/39. Climate change and poverty. Report of the Special Rapporteur on extreme poverty and human rights. 17 July 2019.
[22] A/76/222. UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice," 23 July 2021. Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/203/78/PDF/N2120378.pdf?OpenElement
[23] Decade of Defiance. Global Witness. 2022. Available at: https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/
[24] The Fossil Fuel Industry's Use of SLAPPs and Judicial Harassment in the United States. EarthRights International. 2022. Available at: https://earthrights.org/wp-content/uploads/SLAPP-Policy-Brief-2022.pdf

This brief was submitted in February 2023 to the UNFCCC in response to the call for 'Views on the approach to the consideration of outputs component of the first global stocktake' by the following member organizations of the ***Human Rights and Climate Change Working Group****:*

EarthRights International, Center for International Environmental Law (CIEL), Heinrich Böll Stiftung Washington DC, CambiaMO, Raise Your Voice Saint Lucia, National Indigenous Disabled Women Association Nepal (NIDWAN), Indigenous Environmental Network (IEN), Project Dryad, Asociación Interamericana para la Defensa del Ambiente - AIDA, Soka Gakkai International, Civicus, Natural Justice, International Tibet Network, QUNO, International Work Group for Indigenous Affairs (IWGIA), Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), Climate Refugees, Global Pact Coalition, La Ruta Del Clima, Shariatpur Development Society (SDS), Swedwatch, Franciscans International, Global Witness, FIAN International, IBON International, Brahma Kumaris, Women's International League for Peace and Freedom, Green Advocates International, Mano River Union Civil Society Natural Resources Rights and Governance Platform, Alliance for Rural Democracy, The Natural Resources Women Platform, Dibeen Association for Environmental Development, One Ocean Hub, Centre for Citizens Conserving Environment & Management (CECIC) Uganda, International Mouvement ATD Fourth World, Amnesty International, Equidad de Género: Ciudadanía, Trabajo y Familia (Gender Equity: Citizenship, Work and Family)

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