



Decades of insufficient climate action has led to the increase in greenhouse gas concentrations which has resulted in what has been described as an unprecedented threat for human rights. Nevertheless, human rights are often ignored in climate responses, leading to ineffective policies and further harm to those impacted, particularly for local communities and indigenous peoples. Governments must take urgent action to effectively mitigate climate change and place human rights at the core of their climate policies to uphold their existing human rights obligations. This briefing note explores opportunities arising from the agenda of the conference for the UNFCCC Parties to promote human rights at COP-25.

## Fulfilling the Paris promises through National Climate Contributions (Decision 1/CP.25)

### *Filling the Ambition Gap and Endorsing Science*

It is imperative that the COP responds to the urgency stressed in each one of the recent IPCC reports as well as to the mobilization of young people rallying in the streets to call for governments to step up their climate responses. While governments are expected to deliver their enhanced and updated Nationally Determined Contributions (NDCs) in 2020, the recent UNSG Climate Action Summit resulted in very limited concrete outcomes and most major emitters have failed to indicate that they will increase their reduction targets.

In this context, the COP-25 must send a strong signal that Parties accept the implications of the recent reports of the IPCC and signal their intention to increase the level of ambition in their enhanced and updated NDCs. Parties must welcome the findings of the IPCC in its reports on land and oceans and the cryosphere. They must also express their collective commitment to enhance their national climate commitments in 2020 in a manner compatible with the imperative to keep global temperature increase below 1.5°C. The outcomes must also reiterate the call for Parties to communicate Long-Term Decarbonization Strategies next year in line with this objective.

### *Committing to rights-based climate action as laid out in the Paris Agreement*

Parties must pursue outcomes in line with their commitment to participatory and rights-based climate action as laid out in the Paris Agreement. To ensure national operationalization of this, Parties should stress the need for a participatory process in the planning or revision of NDCs and Long Term Strategies in decision 1/CP.25. This process needs to allow the full and effective participation of representatives from civil society and indigenous peoples and be informed by States' obligations under relevant international frameworks related to human rights and biological diversity. Decision 1/CP.25 should also recall the importance for these commitments to contribute to gender equality and a just transition. Failure to reflect the importance of these considerations would constitute a step back from the vision to which all governments abided in Paris.

Effective and just climate action requires access to information and effective public participation – a principle recognized in Article 12 of the Paris Agreement. The Escazú Agreement on Environmental Democracy in Latin American and the Caribbean countries, thus far ratified by 6 countries, represents

a promising breakthrough for the protection of procedural rights of people across the continent. In addition, the Agreement includes a recognition of the need for governments to guarantee the effective protection of the rights of environmental defenders. We welcome the leadership of the countries having ratified the agreement.

To gather the 11 ratifications needed for the entry into force of the Escazú Agreement, we call upon Latin American and Caribbean countries to use the opportunity presented by the COP to express their commitments to the **rapid ratification of the Escazú Agreement**. Chile in particular must sign and forward the agreement to Parliament for ratification, as Chile holds the COP Presidency and was one of the countries who spearheaded the establishment of the Escazú Agreement. This should be done as a matter of urgency to demonstrate its commitment to greater engagement of the public in climate policies and to retain its international credibility.

### Article 6 Mechanisms (SBSTA Agenda Item 12)

Following COP-24, the rules, modalities, and guidelines for the market and non-market approaches under Article 6 of the Paris Agreement remain a main area to be resolved. Article 6 establishes cooperative approaches involving the use of internationally transferred mitigation outcomes (ITMOs) (Art. 6.2), a “Sustainable Development Mechanism” (Art. 6.4), and non-market approaches (Art. 6.8) as potential modes of cooperation for Parties to meet their mitigation goals. Despite lengthy negotiations at COP-24, Parties remained unable to come to an agreement and were mandated to continue working at COP-25 towards completing this part of the Implementation Guidelines.

Like its predecessors, Article 6 mechanisms allow for the use of cooperative approaches to meet mitigation commitments. Critically, these approaches should learn from their predecessors, including the Clean Development Mechanism (CDM), and ensure that initial harm is prevented and that harm is remedied so it does not persist nor remain unaddressed. To do so, Article 6 mechanisms should, from their inception, embrace 1) the need for social and environmental safeguards to prevent harm from these activities; 2) robust stakeholder consultation that involves communities in project design and ensures respect for the free, prior, and informed consent of indigenous peoples; and 3) an avenue for communities to seek redress for harms if they do occur. To ensure this avenue for redress exists, the Sustainable Development Mechanism should establish an independent, legitimate, accessible, transparent, equitable, and rights-compatible grievance mechanism.

Cooperative approaches under Article 6 should be guided by Parties' respective human rights obligations and should not facilitate projects that undermine these obligations in the name of the climate crisis. Additionally, cooperative approaches should ensure environmental integrity and not be used as a way to continue business as usual while offsetting emissions, but instead in a manner that leads to an overall reduction in global emissions.

### Proposals in response to the Draft Texts following SBSTA50

#### Article 6.2 – Cooperative Approaches

The Guidance on cooperative approaches under Article 6.2 governing Internationally Transferred Mitigation Outcomes (ITMOs) should include that ITMOs must, among other things, avoid environmental harm and human rights abuses. If they do not, Parties should not be able to use them towards achieving their NDCs.

The brackets should be removed from para. 4(l)(xi) so as to establish that the SBSTA should continue to develop guidance on Safeguards and Limits, including that “Use of Article 6 should not lead to other environmental and social impacts, and should respect human rights in its application.”

The brackets from Para. 40(k) should be removed. The paragraph should maintain or improve the language that Parties using cooperative approaches should report on how the activities “(k) Are consistent with the Party's respective obligations on human rights.”

Lastly, the section on Safeguards and Limits should be maintained and the guidelines should specify safeguards, including eliminating the brackets in para. 60(l) around: "Use of Article 6 should not lead to other environmental and social impacts, and should respect human rights in its application."

### **Article 6.4 – Sustainable Development Mechanism**

The rules for the Sustainable Development Mechanism should reflect lessons learned from the mistakes of the CDM under which registered projects contributed to both environmental harm and human rights abuses. Thus, the new rules should incorporate human rights based environmental and social safeguards, meaningful and effective stakeholder consultation, and a robust, independent grievance mechanism for communities to access if they are harmed by a project registered under the mechanism so that the harm can be remedied quickly. The current negotiating text includes references to human rights provisions, but these remain limited and more work is needed to ensure that human rights are sufficiently respected in implementation of the Paris Agreement.

Though ideally Article 6 modalities will be adopted at COP-25, paragraph 7 of the Draft Decision provides for further work to be done to develop the remaining required rules, modalities, and procedures. If the provisions are not adopted at COP-25, this paragraph should maintain para. 7(e) on developing further procedures related to the grievance process, as well as paras. 7(f) and 7(g)(viii) related to further ensuring that human rights will be respected, protected, and considered in mechanism processes and activities.

To ensure environmental integrity and social and environmental safeguards the Participation Responsibilities should include provisions that ensure that human rights are respected, promoted, and considered. To do so, the brackets in para. 33 should be removed. Additionally, Section VII, subsection A on activity design should maintain the language in para. 39(e). However, it should be modified by removing the brackets, so that para. 39(e)(i) says "... the activity shall: ... (iii) Avoid negative environmental and social impacts; (iv) Not lead to increase in global emissions. Further, para. 39(e)(v) should revert back to its previous version and specify that "... the activity shall ... Be consistent with, and not pose a threat to, human rights;" or at the very least, the brackets should be deleted and the paragraph maintained. Lastly, the section on safeguards and limits should include para. 89(h) and the brackets should be removed accordingly.

Consulting with local communities and indigenous peoples from the beginning of activity design and throughout the life of the activity is essential to ensuring sustainable development. As such, the brackets should be removed from para. 39(f) and the following language should be maintained: "The activity shall undergo a local and, where appropriate, sub-national stakeholder consultation".

To ensure communities have an adequate avenue for grievance redress, the current draft must be improved in the following ways. Para. 72 should be removed from brackets and should be amended to say that "Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by *an independent, rights-based, accessible, transparent, and equitable grievance mechanism.*" It is essential that the communities have an independent body to go to when seeking redress, as the Supervisory Body does not have the impartiality that will help ensure that harms are remedied and grievances addressed. Additionally, para. 73 should be removed from brackets, but should not replace the need for establishing a grievance mechanism through para. 72 as amended above.

### **Article 6.8 - Framework for Non-Market Approaches**

The work programme on non-market approaches developed under Article 6.8 should also ensure that non-market approaches are consistent with human rights obligations. Thus, the draft decision should maintain the reference in its preamble recalling the Paris Agreement in its entirety, including the preamble. Further, the principles for non-market approaches should include that they will respect, promote, and consider human rights and as such, para. 1(b) should include subparagraph "(vi) Respect, promote and consider human rights."

Additionally, the work programme should include opportunities for the engagement of civil society and indigenous peoples in the development of non-market approaches. Therefore, para. 4 of the draft decision, which welcomes submissions from Parties and observers, should be maintained and the brackets removed. Additionally, the modalities for the work programme, as laid out in para. 12,

should include regular meetings with civil society organizations, as well as submissions from observers. This provision should be strengthened to require that the modalities of the work programme include engagement of civil society rather than just indicating that it may do so where appropriate.

### **2019 review of the of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (SBI item 9)**

Together with the lack of sufficient ambition, the absence of adequate international support for communities and indigenous peoples facing climate-induced loss and damage is perhaps the most pressing threat for the enjoyment of human rights in the context of a warming planet. Communities at the front lines of climate impacts have already seen extreme weather events and slow onset events threaten their human rights. In this context, there exists an urgent need for UNFCCC Parties to enhance their cooperation on loss and damage through the review of the Warsaw International Mechanism (WIM) at the COP-25.

Through the review, Parties should establish a financial mechanism under the WIM that is mandated to mobilize financial resources for loss and damage. This should allow for innovative financing and approaches to strengthen the mandate of the WIM in relation to action and support so its Executive Committee can make progress on matters related to the identification, mobilization, and promotion of means of implementation for loss and damage. The Parties should mandate the mobilization of technical and financial support for loss and damage to be targeted specifically towards the most vulnerable.

### **Gender and Climate Change (SBI item 17)**

COP-25 is expected to finalize the review of the Lima Work Programme (LWP) and its Gender Action Plan (GAP). This review should result in the adoption of an enhanced, gender-responsive and human rights-based long-term work programme and comprehensive action plan. This should reflect the need for a human rights and gender just approach to meet the overall goals of deep emission reductions and the transition to a just, equitable, and sustainable future.

To do so, the renewed Lima Work Programme should call on Parties to provide support to enhance the capacities of stakeholders to develop and implement rights-based and gender responsive climate policies and programmes. In enabling this, the LWP should contain clear targets and indicators, as well as put in place a mechanism or process to monitor progress towards these targets. Targets should include applying an intersectional lens to climate policies, but also to enhancing participation and empowerment of women. In addition, the renewal should be utilized to ensure greater recognition of a just transition and the need to integrate gender considerations for a just transition. The gender dimension of a just transition needs to be highlighted in the new LWP through capacity-building initiatives focusing on this dimension and by organizing dialogues to raise awareness on this issue.

To ensure gender-just and rights-based solutions to the climate crisis, the new LWP and GAP should also link up with various other international (environmental) instruments, such as the 2030 agenda on Sustainable Development. This can facilitate the exchange of ideas and best practices, as well as promote coherence between instruments.

### **Local Communities and Indigenous Peoples Platform (SBSTA item 8)**

At COP-25, Parties will be invited to endorse the first programme of work adopted by the newly established Local Communities and Indigenous Peoples Platform. The Platform is a unique body that allows governmental delegates and indigenous peoples representatives to participate in its proceedings on equal footing. Adoption of practices that create better representation of indigenous peoples within the UNFCCC could reverse the trend of the last two decades of negotiations that have largely ignored the importance of traditional knowledge and collective rights of indigenous peoples.



In this context, it is crucial that the Parties do not interfere with the work of the Local Communities and Indigenous Peoples Platform and uphold their commitment to providing equal footing to indigenous peoples representatives in decisions related to the Platform. The adoption of the work plan will also provide a good opportunity for Parties to announce voluntary financial commitments to support the effective implementation of this work plan.

### **Koronivia Joint Work Programme on Agriculture (SBI item 8/SBSTA item 6)**

Under the Koronivia Joint Work Programme on Agriculture (KJWA), Parties will continue to advance their work through a series of workshops. At COP-25, they will consider the outcomes of the workshops held at the June intersessional in Bonn and participate in a workshop on nutrient use and manure. The KJWA offers the opportunities for the sharing of expertise on the linkages between agriculture and climate change and to consider how agroecology can help reduce the carbon footprint of our food production, while also increasing resilience. Parties should continue to make progress on these matters and consider how to take this work further.

### **Matters relating to finance (COP item 8 and CMA item 6)**

Every year the COP provides guidance to its financial mechanisms, including the Global Environment Facility (GEF) and the Green Climate Fund (GCF). As the GCF begins to enter its first replenishment period and is in the process of developing its 4-year strategic plan, Parties could use this opportunity to stress that the GCF should continue to make progress to ensure the protection and inclusion of local communities, indigenous peoples, and women in the GCF. Further, the COP should encourage the GCF to continue to make progress towards being fully functioning and efficient, including through encouraging the GCF to continue its work to fill policy gaps. In addition, the GCF should be encouraged to ensure the timely approval of workplans and budgets not only for the Secretariat, but also the independent units, including the Independent Redress Mechanism, which play a critical role in ensuring the accountability of the Fund.

### **Matters relating to capacity-building for developing countries (SBI item 15)**

Capacity Building is a prime element of the global climate response to enable all countries to tackle climate change effectively. While the importance of capacity building was recognized in 1992 in the provisions of the UNFCCC, this element was only institutionalized in 2015 with the establishment of the Paris Committee on Capacity Building (PCCB). Since then, the PCCB has been at the forefront of the promotion of human rights in climate policies. It has built on its mandate to take into consideration "cross-cutting issues such as gender responsiveness, human rights and indigenous peoples' knowledge" through its 2016-2020 work plan.

As the mandate of the PCCB comes under review in Madrid, the Parties should not only renew the PCCB mandate, but also enhance its work, including through strengthening institutional linkages with other relevant bodies within and outside of the UNFCCC process, as well as by providing the PCCB with additional resources.

### **National Adaptation Plans (SBI item 12)**

Last year, the Parties requested the Least Developed Countries Expert Group (LEG) to consider gaps and needs related to the process to formulate and implement National Adaptation Plans (NAPs). At COP-25, Parties are expected to provide further recommendations regarding these gaps and needs. This process offers an opportunity for Parties to mandate the LEG to support LDCs adaptation planning in a manner that more effectively reflects the principles laid out in Article 7.5 of the Paris Agreement. This includes gender-responsive, participatory, and fully transparent adaptation that takes into consideration vulnerable groups, communities, and ecosystems. This should be based on and guided by the knowledge of indigenous peoples and local knowledge systems.

The LEG is currently playing an active role in supporting the integration of gender considerations in the planning of NAPs and it is developing a toolkit on this issue. However, the LEG has identified that more needs to be done in mapping gaps and needs to ensure “adequate engagement of multiple stakeholders in managing adaptation planning and implementation at multiple levels and scales”. They state this is needed to analyze “which communities, groups and ecosystems are the most vulnerable” and the “ways to effectively engage different stakeholders at the national and subnational level, including civil society, (...) the youth, local communities and indigenous peoples”. The COP should mandate the LEG to address these gaps as a matter of priority in order to contribute to the alignment of the planning of NAPs with the principles laid out in Article 7.5 of the Paris Agreement.

### Matters Relating to the Forum on the Impact of the Implementation of Response Measures (SBI item 16 & SBSTA item 9)

The decarbonization of our economies will require a radical transition that must be managed in a manner that is just and guarantees the rights of workers and communities. A just transition also needs to ensure that individuals and representative organizations, including trade unions, are fully empowered to contribute to the rapid changes required. The principle of a just transition was agreed upon in 2010 in Cancun, its importance was reiterated in the Paris Agreement, and other institutions have elaborated on this issue, including the International Labour Organization.

The establishment of the Katowice Committee of Experts on the Impacts of the Implementation of Response Measures (KCI) last year provides an opportunity for the UNFCCC to more effectively promote the imperatives of a just transition in the climate action of Parties. The Parties must enable the KCI to initiate its substantive work by adopting the KCI rules of procedures and emphasising the importance of its mandate related to the just transition. Parties must refrain from using response measures primarily as a bargaining chip to secure potential gains in relation to other agenda items, as often has been done in the past.

### Reviewing National Implementation through the Multilateral Assessment & Facilitative Sharing of Views

Finally, using the transparency frameworks to review the commitments on the implementation of national climate policies offers an opportunity to seek further clarification on the integration of human rights in national climate policies from Parties under review. At COP-25, the following countries will be under review: Austria, Belgium, Bulgaria, Greece, Kazakhstan, Luxembourg, New Zealand, Portugal, and Switzerland as well as Chile, Ghana, India, Malaysia, and Saudi Arabia.

Parties should make use of the interactive dialogues held on the 7th and 9th of December to question the governments under review on how public participation and human rights contribute to their progress towards the achievement of their 2020 climate target. Building on the information that the Parties had included in their latest biennial report, other States could ask more specifically:

- to Ghana, India and Malaysia: how strengthening the **rights of and empowering local communities and indigenous peoples** have contributed to combating deforestation and to reforestation,
- to Belgium, Chile and Portugal: how the **recognition and protection of the right to a healthy environment** contributes to more effective climate responses,
- to Chile, Kazakhstan, Portugal and Switzerland, how fulfilling the **right of the public to access to information, public participation and access to justice** in environmental matters strengthens climate governance.