

States' Human Rights Obligations in the Context of Climate Change

2020 Update



2019 was a big year for human rights and climate change in the work of the UN human rights treaty bodies and beyond. Five human rights treaty bodies issued a [joint public statement](#) articulating States' human rights obligations in the context of climate change, ahead of the United Nations Secretary-General's New York Climate Summit in September. Two individual communications were submitted to the treaty bodies asserting that States' inaction on climate change, and particularly emissions reduction, is threatening the complainants' human rights. One decision was adopted by the Human Rights Committee on the impacts of climate change and the right to life.

Other institutions have also increasingly stepped in to address the linkages between human rights and climate change. The High Commissioner for Human Rights increased her advocacy on this topic, highlighting climate change in her opening remarks to each of the Human Rights Council sessions in 2019, making it the focus of her [statement](#) to the September session, and participating in the UN Climate Conference in Madrid (COP25). In December, the Philippines Commission for Human Rights announced its key conclusions in its unprecedented investigation into the responsibility of fossil fuel corporations for climate-induced human rights harms. Finally, in December 2019,

the Supreme Court of the Netherlands handed down its landmark decision in the [Urgenda case](#) finding that the Dutch government's measures to reduce emissions were insufficient and in violation of its human rights obligations under the European Convention on Human Rights, including its obligations with respect to the right to life.

The work of the UN human rights treaty bodies (HRTBs) remains crucial for developing the jurisprudence and the guidance for States on States' human rights legal obligations with respect to climate change, as well as highlighting the impacts of climate change and response measures



on the human rights of different groups. The HRTBs are also an important accountability mechanism for ensuring States respect, protect, and fulfill rights in the context of climate change impacts and response measures.

This Synthesis Note provides a summary of developments in the HRTBs' work on human rights

in the context of climate change. The publication builds on our two previous Synthesis Notes (2018 and 2019), collating and analyzing the outputs of the treaty bodies on this topic. It considers the developments in each of the functions of the HRTBs: general comments and thematic initiatives; state reporting procedure; and commu-

nications procedure. It analyses the themes and trends in the treaty body recommendations to States regarding climate change.

The Note thus provides a comprehensive analysis of the scope of States' human rights obligations in the context of climate change according to the HRTBs, exploring how these UN institutions have interpreted the key UN human rights treaties in the context of climate change mitigation, adaptation, international cooperation, and the participation of civil society and affected groups in climate policy-making. Finally, it includes four Annexes that provide specific information on the work of four HRTBs on climate change since 2008: the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on the Rights of the Child, and the Human Rights Committee.

Role of the Human Rights Treaty Bodies in Addressing Human Rights and Climate Change

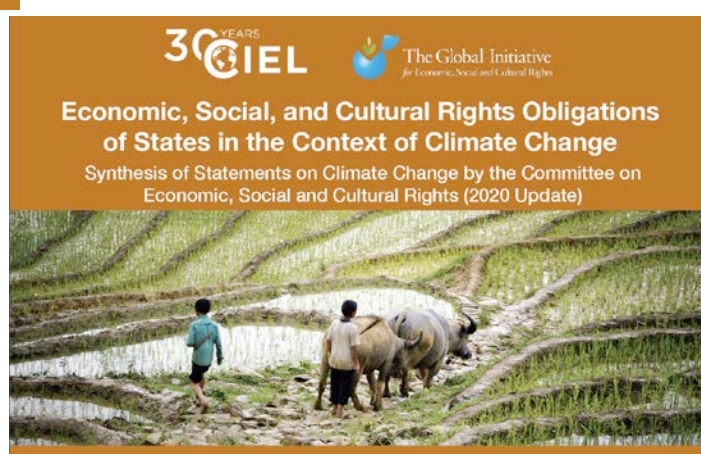
The HRTBs are institutions established under each of the UN human rights treaties which are mandated to monitor States' implementation of their human rights obligations under that legal instrument. The HRTBs are comprised of between 10 and 23 independent human rights experts, appointed by States but working in their personal capacities. They have three main functions: the

Four Annexes to the 2020 Update

Available here: <http://bit.ly/HRTB2020Update>



Committee on the Elimination of
Discrimination against Women
(CEDAW)



Committee on Economic,
Social and Cultural Rights
(CESCR)



Committee on the Rights of the
Child (CRC)



Human Rights Committee
(CCPR)

Name of the treaty body	Human rights treaty monitored	Relevant rights and principles
Committee on the Elimination of Discrimination Against Women (CEDAW)	International Convention on the Elimination of All Forms of Discrimination Against Women (ICEDAW)	<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 (ICESCR)	<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)	International Convention on the Rights of the Child (ICRC)	<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 (ICCPR)	<ul style="list-style-type: none"> • Peoples' right of self-determination (article 1) • Rights to life (article 6), to expression (article 19), to take part in public affairs (article 25), and to 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)
Committee on the Rights of Persons with Disabilities (CRPD)	International Convention on the Rights of Persons with Disabilities (ICRPD)	<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)
Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW)	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)	<ul style="list-style-type: none"> • Right to freely leave any state and enter the state of origin (article 8) • Obligation to promote sound, equitable and humane conditions in connection with international migration (article 64)

State reporting procedure (reviewing States' compliance with their treaty obligations); the individual communications procedure (a quasi-judicial complaints procedure); and general comments (or recommendations) and thematic initiatives.

Since 2008, a number of the HRTBs have considered climate change and how it impacts the rights protected under key UN human rights treaties. The majority of the work on climate change has occurred in the State reporting procedures and has involved Committees asking States questions about climate policies and making recommendations to them about how to comply with their treaty obligations in the context of climate change.

Three Committees have been particularly active in addressing climate change, in part due to the scope of the substantive obligations contained in the relevant treaty: the Committee on the Elimination of Discrimination Against Women (CEDAW); the Committee on Economic, Social and Cultural Rights (CESCR); and the Committee on the Rights of the Child (CRC). More recently, other Committees have also begun to engage on the issue, including the Human Rights Committee (CCPR), the Committee on the Elimination of Racial Discrimination (CERD), and the Committee on Migrant Workers (CMW). The engagement of the HRTBs on climate change reached a new high in 2019 with some interesting new initiatives and cases, which are discussed below.

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

General Comments and Thematic Initiatives of the HRTBs

In September 2019, ahead of the UN Climate Action Summit, five HRTBs published a [joint statement](#) on "human rights and climate change." It is rare for the treaty bodies to issue joint public statements, which indicates that climate change is considered a particularly important topic and relevant to a wide range of human rights and rights holders. The statement provides an important overview of the nature and scope of States' human rights obligations in the context of climate change.

In addition, several HRTBs have issued General Comments and Statements of high relevance to the linkages between human rights and climate change. CEDAW [General Recommendation #37](#) (2018) stresses the following three general principles of the CEDAW Convention as particularly relevant to guide climate action and disaster risk reduction: substantive equality and non-discrimination; participation and empowerment; and accountability and access to justice. While the CEDAW's main focus in the General Recommendation is on policy designed to address climate impacts and

climate-related disasters, the draft text also stresses that "limiting fossil fuel use and greenhouse gas emissions and the harmful environmental effects of extractive industries such as mining and fracking, as well as the allocation of climate financing, are regarded as crucial steps in mitigating the negative human rights impact of climate change and disasters."

Also highly relevant is the Human Rights Committee's [General Comment No. 36](#) (right to life), which states that "Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life." Further, the General Comment notes that "States parties are thus under a due diligence obligation to undertake reasonable positive measures, which do not impose on them disproportionate burdens, in response to reasonably foreseeable threats to life originating from private persons and entities, whose conduct is not attributable to the State."

Complementary to the joint statement described above, two Committees have also adopted treaty-specific statements on climate change. Following the release of the IPCC report on 1.5°C in October 2018, CESCR adopted a statement on "Climate change and the International Covenant on Economic, Social and Cultural Rights." The Statement stressed the obligation of States to mobilize the maximum available resources to protect their populations, as well as populations outside their borders, from the impacts of

In September 2019, five HRTBs — the CEDAW, the CESCR, the CRC, the CMW, and the Committee on the Rights of Persons with Disabilities (CRPD) — adopted a joint statement on human rights and climate change. It articulates the legal obligations of the 196 States that have signed the relevant UN human rights treaties (ICEDAW / women’s rights, ICRC / children rights, ICESCR / economic, social, and cultural rights, ICRPD / rights of persons with disabilities, and ICMW / rights of migrant workers), in the context of climate change.

The statement welcomes the 2018 report of the Intergovernmental Panel on Climate Change (IPCC), on 1.5°C of global warming and notes that the climate impacts identified in that report threaten the right to life, the right to adequate food, the right to adequate housing, the right to health, the right to water, and cultural rights.

The statement also underscores that some groups are more vulnerable to the risk of harm than others: “those segments of the population already marginalized or in vulnerable situations or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, such as women, children, persons with disabilities, Indigenous Peoples and persons living in rural areas.” However, it recognizes the agency of those most impacted by climate change and emphasizes an inclusive, multi-stakeholder

approach with wide participation in climate policy-making.

The statement goes beyond reiterating calls for emissions reductions, stressing that States must, as a matter of human rights law, implement emissions cuts reflecting the highest possible ambition, including by phasing out fossil fuels, promoting renewable energy, combatting deforestation, and ensuring financial flows, investments, and incentives are consistent with low emissions pathways. It also stresses the obligations of States to regulate private actors and hold them accountable for climate harms occurring domestically and extra-territorially. It warns States that: “Failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States’ human rights obligations.” It urges States to take into consideration their human rights obligations, as they review their climate commitments under the UNFCCC framework.

Developed States are reminded of their obligations of international cooperation with respect to climate finance and transfers of green technologies to developing countries. Finally, the statement highlights that in the design and implementation of climate policies, States must respect, protect, and fulfill rights.

The statement concludes by saying that the HRTBs will continue to “keep under review” the impacts of climate change on rights. Therefore, we can expect that climate change will continue to be a topic of focus in the work of the Committees.

This important statement clearly articulates how the human rights treaties apply in relation to climate-related human rights harms and what States must do to avoid such harms. Advocates are already referring to this statement in petitions and reports to the human rights treaty bodies and in their advocacy at the national level.



© Silke von Brockhausen / UNDP

climate change. The Statement also noted the role of courts and other human rights mechanisms to ensure the enforcement of those obligations, as well as the role of States to adequately regulate business actors.

In the context of the 2018/2019 climate mobilizations led by children and youth (Fridays for Future), the CRC also issued a statement in September 2019 voicing support for children campaigning on climate change, welcoming “the active and meaningful participation of children, as human rights defenders, in relation to issues of concern to them along with everyone else.” The Committee stressed that in accordance with article 12 of the Convention on the Rights of the Child, children must be at the center of the discourse on climate change and their opinion should be listened to and taken into account.

This growing body of soft law guidance to States on human rights and climate change will assist States and other stakehold-

ers to understand States’ legal obligations and will be a useful tool in pushing for State action to protect rights by addressing climate change. It will also be of interest to advocates working on national climate litigation relying on human rights legal protections, which is a growing body of work.

Communications Procedure

In a sign that both victims of climate impacts and climate advocates see the HRTBs as important avenues of accountability and advocacy and as useful pressure points in climate campaigns, three cases have arisen in the HRTBs’ communications (complaints) procedures. Two of those cases are pending and a decision has been adopted in the third case.

UN Human Rights Committee communication against Australia by a group of Torres Strait Islanders:

In the first action of its kind, in May 2019, a group of [Torres](#)

[Strait Islanders](#) lodged a complaint with the UN Human Rights Committee against Australia in relation to climate-induced rising seas, tidal surges, coastal erosion, and inundation of communities in the Torres Strait Islands in the north of Australia. The Islanders claim that Australia’s failure to reduce emissions, combined with the absence of adequate climate adaptation measures, violates their fundamental human rights, including their rights to life and culture. The petition describes the serious impacts of climate change on the island life of the Torres Strait Islanders, highlighting how climate change is threatening their homes, land, food sources, water sources, cultural sites, and practices.

Ultimately, climate change will forcibly displace the Torres Strait Islanders to mainland Australia, away from their land and sea territories, to which their culture is inextricably linked. The Islanders are seeking remedies for the violations of their rights to life (ICCPR article 6) and culture (article 27),



© Tommi Boom via Flickr

occasioned by Australia's failure to effectively mitigate climate change.

This case has been registered by the Committee and, after the exchange of documents by the parties, will be considered at a future session of the Committee. Currently, the average time for a decision in cases submitted to the Human Rights Committee is approximately four years.

UN Committee on the Rights of the Child communication against Argentina, Brazil, France, Germany, and Turkey by a group of children:

On September 23, 2019, [Greta Thunberg and fifteen other children](#) filed a [petition against Argentina, Brazil, France, Germany, and Turkey](#) under the Third Optional Protocol to the International Convention on the Rights of the Child (ICRC). The petitioners allege that in knowingly causing and perpetuating climate change, those States have failed to take the necessary measures to respect, protect, and fulfill the children's rights to life (Article 6), health (Article 24), and culture (Article 30) under the Convention. In addition, the petitioners claim that the adoption of climate policies which merely delay decarbonization effectively shifts the burden of climate change onto future generations, amounting to a violation of their right to have children's best interests be a primary consideration in actions that concern them (Article 3).

By way of relief, the petitioners seek findings that, by recklessly perpetuating life-threatening climate change, in disregard of scientific evidence, the respondent

States are violating the petitioners' rights to life, health, culture, and the prioritization of the child's best interests. They also seek recommendations that the respondent States:

- review and amend their laws and policies to ensure that mitigation and adaptation efforts are accelerated in order to protect the petitioners' rights;
- initiate cooperative international action to establish binding and enforceable measures to mitigate the climate crisis and prevent further harm to children; and
- ensure the child's right to be heard and to express their views freely, in all efforts to mitigate or adapt to the climate crisis.

The Committee has registered the communication as five separate cases, one against each of the five States. Now the admissibility and merits will be considered by the Committee. Currently, the average length of time between the submission of communications to the CRC and the adoption of a decision is approximately two years.

UN Human Rights Committee communication against New Zealand regarding non-refoulment obligations in the context of climate change:

The Human Rights Committee recently adopted its [decision in a case against New Zealand](#) (CCPR/C/127/D/2728/2016) brought by a Kiribati man and his family who claimed that his right to life was violated when he was deported to Kiribati, since the impacts of cli-

mate change in Kiribati posed an imminent threat to their lives ([case summary](#)). The petitioner presented evidence in his claim for asylum in the national courts, describing the rising sea levels, coastal erosion, reduction in habitable land, salination of water supplies, lack of access to drinking water, reduced ability to grow food crops, and over-crowding and violent land disputes. The Committee accepted his claim that due to sea level rise, Kiribati would be uninhabitable in 10-15 years' time.

Whilst ultimately rejecting the man's petition, the Committee accepted that the impacts of climate change could expose people to violations of the right to life under the International Covenant on Civil and Political Rights and trigger State obligations not to deport people. Signaling that future cases might be decided differently as the impacts of climate change worsen, the Committee explicitly noted New Zealand's obligation in future deportation cases to consider new and updated data on the effects of climate change in Kiribati.

Two Committee members published notable dissenting opinions in the case — Ms. Vasilka Sancin and Mr. Duncan Laki Muhumuza, with the latter admonishing the actions of New Zealand as akin to "forcing a drowning person back into a sinking vessel, with the 'justification' that after all there are other voyagers on board."

State Reporting Procedures of the HRTBs

The HRTBs have been raising climate change in their reviews

of States' compliance with human rights treaties since at least 2008. The number of references to climate change across the HRTBs has grown significantly since then, although we saw a slight drop in 2019 compared with 2018. Much of the recent growth has been in references to climate change in the "Lists of Issues" provided by the HRTBs to States. Lists of Issues are documents highlighting the key human rights issues in that particular country with respect to the relevant treaty, which the HRTB would like the State to address in the review process. Therefore, where climate appears in the List of Issues, this indicates that the HRTB sees climate change as an important issue and one that the State should address in its State report and in the dialogue with the Committee.

The CRC, CESC, and CEDAW continue to make the highest number of recommendations to States, with a noticeable increase in 2019 for the CRC and CESC.

The CEDAW has made the highest number of climate-related recommendations (46 Concluding Observations) and questions (27 Lists of Issues) to states between 2008 and 2019.

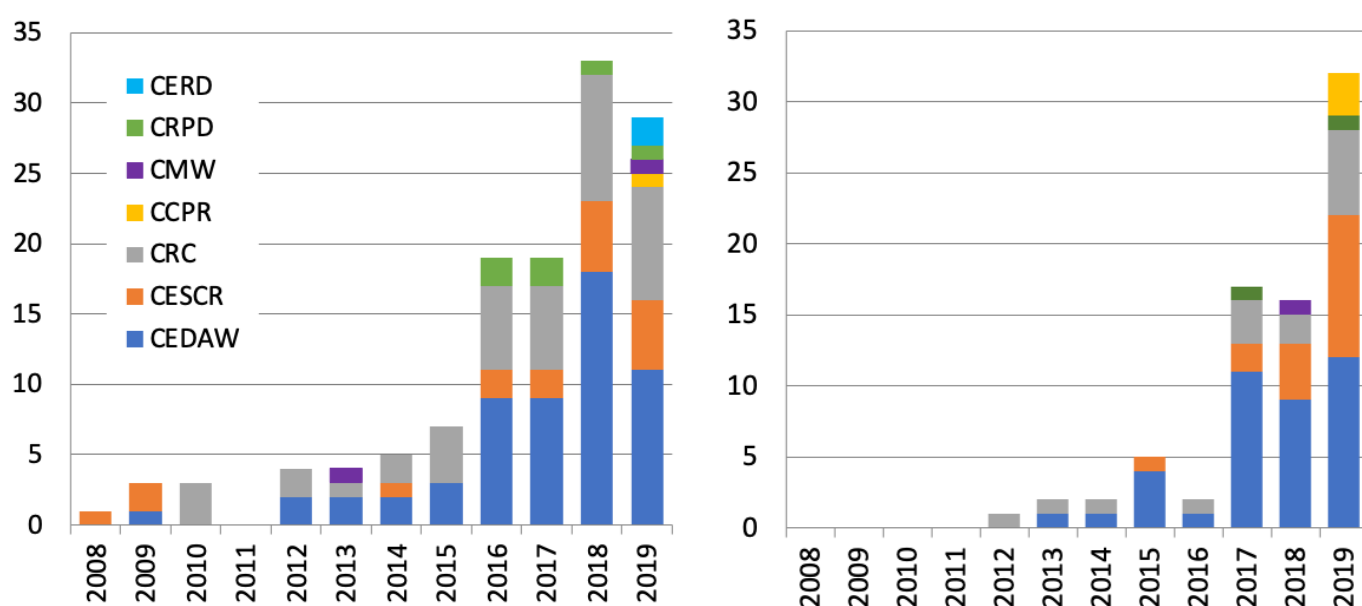
The Human Rights Committee, Committee on the Rights of Persons with Disabilities (CRPD), Committee on the Elimination of Racial Discrimination, and Committee on the Rights of Migrant Workers all made one or two recommendations (Concluding Observations (COBs)) on climate to States in 2019. For example, the CRPD recommended that Australia:

"Recognizing that the effects of climate change contribute to exacerbating inequality and vulnerability among persons with disabilities,... in close consultation with representative organizations of persons with disabilities, establish a fully accessible and inclusive mechanism to engage with persons with disabilities in the implementation

and monitoring of the Sendai Framework." (CRPD, Australia, 2019)

For the CCPR and the CERD, 2019 was the first year that they made recommendations on climate. The CCPR made a climate recommendation to Cabo Verde and addressed climate in its Lists of Issues to three States (United States, Dominica, and Cabo Verde). For example, the Committee urged Cabo Verde to:

"As a small island state particularly vulnerable to climate change... step up efforts to develop mechanisms and systems to ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments, provide appropriate access to information on environmental hazards and implement the precautionary approach to protect persons in the State Party, including the most vulnerable, from the negative impact of



Figures 1 & 2: Evolution of References to Climate Change in Concluding Observations (left) and Lists of Issues (right) of the HRTBs, 2008–2019

climate change and natural disasters...” (CCPR, Cabo Verde, 2019)

For each of these recommendations or questions, the Committee’s concerns on climate change related to the right to life. For Dominica, the Committee also referenced articles 17 (right to privacy, family, and home) and 25 (right to vote and take part in

public affairs) of the International Covenant on Civil and Political Rights (ICCPR).

The CERD made climate recommendations to El Salvador and Mexico, in both cases raising concerns about the impact of climate change on Indigenous Peoples’ rights and land, and recommend-

ing the State ensure the participation of Indigenous Peoples in climate policy-making.

As can be seen in Figure 3, the States most likely to receive a recommendation on climate from the HRTBs are small island developing states (SIDS) and least developed countries (LDCs). This is particularly so for CEDAW, which addressed climate change in 33% of its recommendations to SIDS and LDCs, but in only 10 % of its recommendations to developed states.

An example of a recommendation to a SIDS is the CRC’s recommendation that Tonga:

“fully implement and support with adequate resources the revised Joint National Action Plan on Climate Change and Disaster Risk Management (JNAP2) including addressing key gaps

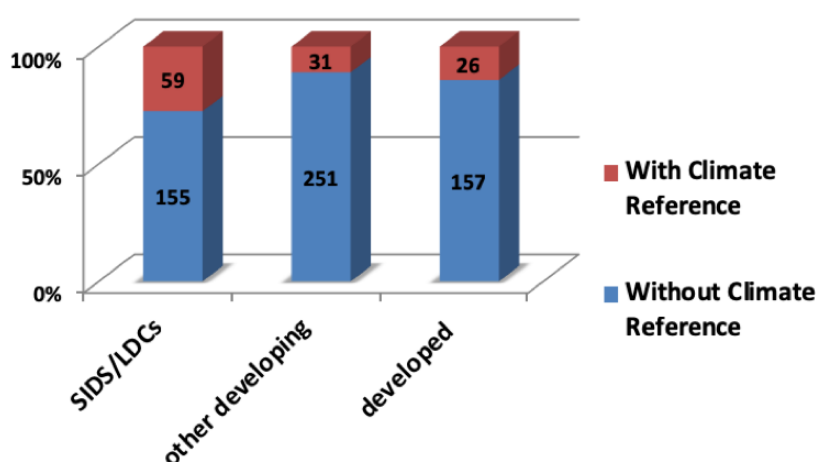


Figure 3: Geography of Concluding Observations Adopted by Key HRTBs (CRC, CESCR, CEDAW), 2008–2019

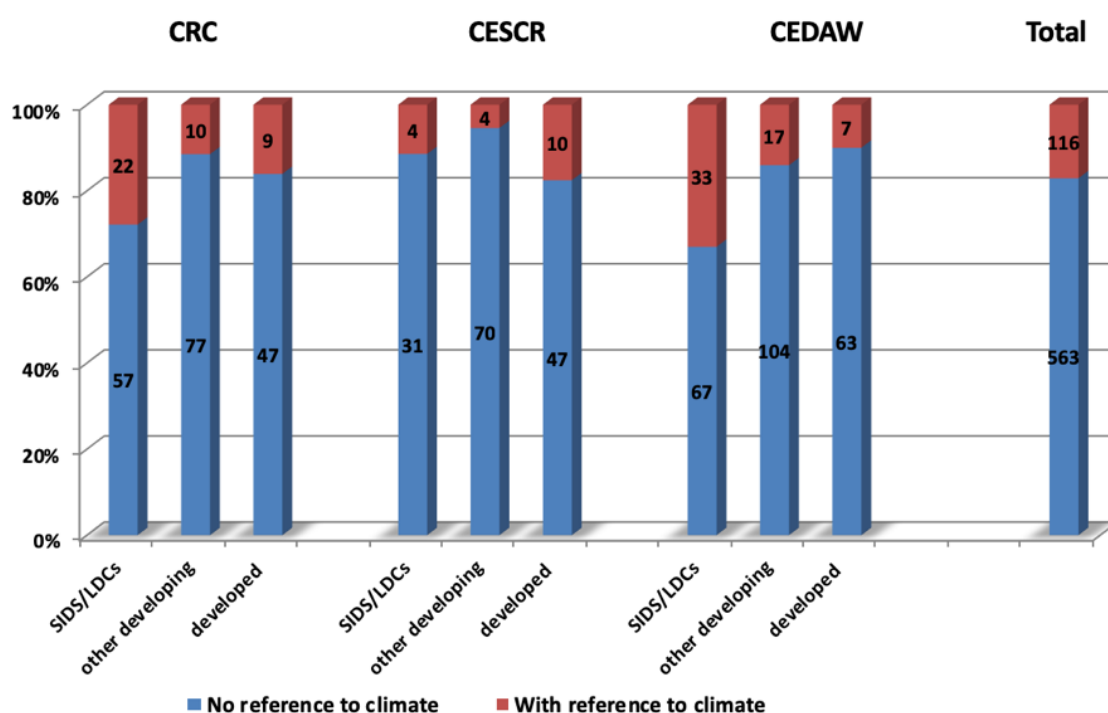


Figure 4: Climate Concluding Observations Adopted by CRC, CESCR, & CEDAW, 2008–2019

identified from the previous National Action Plan on Climate Change and Disaster Risk Management (JNAP1);
 (b) Continue building children’s awareness and preparedness for climate change and natural disasters;
 (c) Review emergency protocols to include assistance and other support to all children, particularly those with disabilities, during emergencies and natural disasters...” (CRC, Tonga, 2019)

The CESCR was the only HRTB to make more recommendations on climate to developed states (10) than to SIDS and LDCs (4) or to other developing states (4).

The diagrams below show the different themes addressed in the climate-related recommendations of the HRTBs.

Adaptation is the theme that received the greatest attention from the HRTBs in their climate recommendations, being the subject of 37% of all of the climate recommendations. The next most

common theme was procedural rights (33%), and particularly, the participation of specific groups in climate decision and policy-making. For example, the CRC in its

consideration of Mozambique referred to the recent Cyclone Idai and recommended:
 “Ensure that the specific vulnerabilities and needs of children,



Figure 5: References to Climate Change in Concluding Observations of All HRTBs by Category, 2008-2019



Figure 6: References to Climate Change in Concluding Observations of CEDAW, CESCR, and CRC (from left to right) by Category, 2008-2019

as well as their views, are taken into account in the development of policies or programmes addressing the issues of climate change and disaster risk management;

(b) Increase children's awareness and preparedness for climate change and natural disasters by incorporating it into the school curriculum and teacher training Programmes..." (CRC, Mozambique, 2019)

The CEDAW has also strongly emphasized the participation and empowerment of women in climate policy-making. For example, it recommended that Cambodia:

"(a) Ensure the effective participation of women, not only as those disproportionately affected by the effects of climate change and disasters but as agents of change, in the formulation and implementation of policies and action plans on climate change and disaster response and risk reduction; (b) Ensure that policies and plans on disaster risk reduction and climate change explicitly include a gender perspective and take into account the particular needs of women, in particular rural women." (CEDAW, Cambodia, 2019)

International cooperation has been the focus of 19% of recommendations. An example of a recommendation on international co-operation, is CEDAW's very explicit recommendation to the Marshall Islands:

"Seek international cooperation and assistance, including climate change financing, from other countries, in particu-

lar the United States, whose extraterritorial nuclear testing activities have exacerbated the adverse effects of climate change and natural disasters in the State party." (CEDAW, Marshall Islands, 2018)

The CESC and the CRC are the HRTBs that have paid the most attention to mitigation in their climate recommendations, including by referencing the need for countries to set adequate climate change targets as well as to implement measures to ensure the fulfilment of these objectives. For instance, the CESC raised concerns with Switzerland that it:

"is not making the necessary efforts to achieve the greenhouse gas emission reduction target for 2020 and that the 50% reduction target compared to the 1990 emission level set for the year 2030 is not compatible with the global warming mitigation targets set by the international community." (CESC, Switzerland, 2019)

Whilst both the CESC and the CRC have each addressed mitigation in ten recommendations to States, this amounts to 27% of CESC's climate recommendations and only 10% of the CRC's. However, the Committees are increasingly focusing their attention on the root causes of the climate crisis, including the continued extraction of fossil fuels such as oil, gas, and coal, the export of these fossil fuels, and the public and private financial investments driving extraction. For instance, CESC recommended that Argentina "reconsider the large-scale exploitation of unconventional fossil fuels

through hydraulic fracturing in the Vaca Muerta region, in order to ensure compliance with its obligations under the Covenant, in the light of the Paris Agreement commitments" (CESC, Argentina, 2018).

In addition to urging states to halt fossil fuel extraction, CEDAW and CESC also recommended that Australia "reconsider its position in support of [...] coal exports" (CESC, Australia, 2018).

Addressing the drivers of continued extraction, CESC asked Switzerland to "take the necessary measures to reduce public and private investment in the fossil fuel industry and ensure that it is compatible with the need to reduce greenhouse gas emissions." (CESC, Switzerland, 2019)

Surprisingly, there is only one recommendation from the HRTBs on the "climate response measures" category. This category refers to measures taken by States to combat climate change that have had an adverse impact on human rights. CEDAW's recommendation to Australia stated: "Adopt a human rights-based approach in the development of climate change responses." (CEDAW, Australia, 2018)

It may be that there were other instances where the HRTBs raised concerns about certain projects' impacts on rights, but the recommendation has not explicitly noted that the project is linked to climate mitigation or adaptation. In any event, it is expected that this theme might receive more attention in the coming years, particularly as the imperative of a just

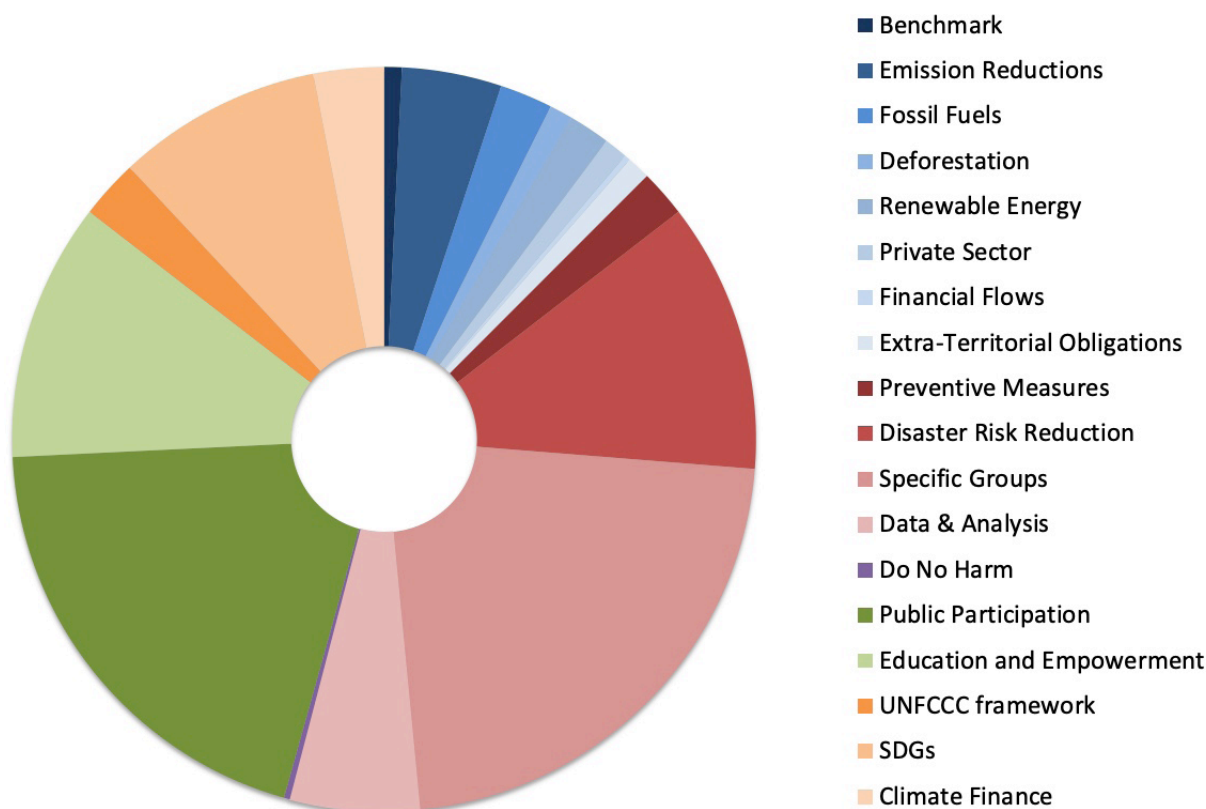


Figure 7: Climate References in Concluding Observations of All HRTBS by Sub-Themes, 2008–2019

transition is increasingly recognized by States and stakeholders.

The recommendations were also categorized according to the sub-themes shown in Figure 7.

This diagram shows that “participation” (20%) and “focus on specific groups” (22%) were the two most commonly referenced sub-themes, closely followed by “disaster risk reduction” and “education and empowerment.” This is consistent with the fact that two of the HRTBs most active on climate change have group-specific mandates: the CRC (children) and CEDAW (women).

The vast majority of the recommendations on disaster risk reduction were made by CEDAW,

perhaps reflecting the fact that its General Recommendation No. 37 has a strong focus on disaster risk reduction in the context of climate change. The Sustainable Development Goals (SDGs) received a reasonable amount of attention in the climate-related recommendations (9%), but surprisingly, the framework of the United Nations Framework Convention on Climate Change (UNFCCC) — including the Paris Climate Agreement — was only referred to in ten recommendations (3%).

An example of a reference to the SDGs is the CRC recommendation to Japan, which commenced by drawing the state’s attention to SDG 13 and its targets (climate action) (CRC, Japan, 2019).

All concluding observations adopted by the HRTBs can be accessed through the following links:

- Concluding Observations adopted by CEDAW: bit.ly/CEDAWcobs
- Concluding Observations adopted by CESCR: bit.ly/CESCRcobs
- Concluding Observations adopted by CRC: bit.ly/CRCcobs
- Concluding Observations adopted by CCPR: bit.ly/HRCcobs
- Concluding Observations adopted by CRPD: bit.ly/CRPDcobs

Compilation of Statements of the HRTBs Regarding Human Rights and Climate Change

This section provides examples of the statements of the HRTBs on human rights and climate change, according to the categories identified above: mitigation, adaptation, procedural rights, and international cooperation. The references provided below are not exhaustive, as many treaty bodies have issued recommendations to different states on similar themes. Rather, this compilation aims to give an indication of the direction of the work of the HRTBs in the context of the climate crisis.

Statements by HRTBs Regarding States' Obligations Related to the Reduction of Emissions and Fossil Fuels (Mitigation)

On the **duty of States to reduce emissions**, the HRTBs said that States must:

- revise their climate change and energy policies and increase their efforts to reduce greenhouse gas emissions (CESCR COB to the Russian Federation, 2017; CEDAW COB to Qatar, 2019) to reflect the highest possible ambition (Joint Statement, 2019);
- intensify domestic efforts to reach their greenhouse gas emissions targets for 2020 (CESCR COB to Germany, 2018) and increase the target for 2030 to be consistent

with the commitment to limit temperature increases to 1.5°C (CESCR COB to Switzerland, 2019);

- take immediate measures aimed at reversing the current trend of increasing absolute emissions of greenhouse gases, and pursue alternative and renewable energy production (CESCR COB to Australia, 2017; CRC COB to Australia, 2019);
- set national targets with time-bound benchmarks to reduce greenhouse gas emissions (CESCR COB to Ecuador, 2019);
- develop a comprehensive national plan for reducing the level of greenhouse gas emissions in line with their international commitments to prevent dangerous climate impacts on the rights to life and health of women and girls, and on children's rights, particularly the rights to health, food, and an adequate standard of living (CEDAW COB to South Korea, 2018; CRC COB to Belgium, 2019; CRC COB to Japan, 2019);
- specify, in consultation with Indigenous Peoples, measures that promote mitigation of climate change (CERD COB to Mexico, 2019).

On the **extraction and exploitation of fossil fuels**, the HRTBs affirmed that States must:

- limit fossil fuel use (CEDAW GR37);
- establish targets and deadlines to phase out the domestic use of coal and its export (CESCR COB to Australia, 2019);

- review their climate change and energy policies, and specifically their policy on extraction of oil and gas to ensure it takes into account the disproportionate negative impacts of climate change on women's rights (CEDAW COB to Norway, 2017);
- review their position in support of coal mines and coal exports (CESCR COB to Australia, 2017) and establish targets and deadlines to phase out the domestic use of coal and its export (CRC COB to Australia, 2019);
- reconsider the increase in oil exploitation and large-scale mining in light of the commitments of the Paris Agreement (CESCR COB to Ecuador, 2019);
- ensure that the "use of non-conventional fossil energies is preceded by consultation with affected communities and impact assessment processes" (CESCR COB to Canada, 2016).

On **fracking**, the HRTBs said that States must:

- limit the harmful environmental effects of fracking, including its impact on climate change (CEDAW GR37; CESCR COB to Argentina, 2018);
- review the policy on fracking and its impact on the rights of women and girls, and consider introducing a comprehensive and complete ban on fracking (CEDAW COB to the United Kingdom, 2019).

On the **effects of air pollution and climate change**, the HRTBs said States must:

- design a strategy to eliminate and carry out environmental impact assessments on the impact of air pollution from coal-fired power plants on children's health and on the climate (CRC COB to Spain, 2018);
- set out a clear legal commitment, with appropriate technical, human, and financial resources, to scale up and expedite the implementation of plans to reduce air pollution levels (CRC COB to the United Kingdom, 2016), especially in areas near schools and residential areas (CRC COB to Malta, 2019).

In relation to the contribution of the **transportation sector** to climate change, the HRTBs have:

- stressed the need for States to ensure the effective implementation of their regulatory framework, and expedite the implementation of plans to reduce air pollution levels (CRC COB to Malta, 2019);
- asked for information about measures to reduce emissions in relation to the aviation and transport sector (CRC LOIPR to Switzerland, 2019).

On **renewable energy**, the HRTBs reiterated that States have to:

- work towards a fundamental shift to renewable sources of energy (Joint Statement, 2019; CESCROB to Argentina, 2018; CEDAW GR37);

- accelerate the transition to renewable energy, including by committing to achieve 100% renewable energy in the electricity sector (CESCROB to Australia, 2019);
- take measures to strengthen policies to address the issue of climate change, including through boosting solar energy (CRC COB to Niger, 2018).

On **deforestation and land use**, the HRTBs affirmed that States need to:

- discontinue deforestation to reduce the impact of climate change (CRC COB to Haiti, 2016) and strengthen measures of reforestation (CRC COB to Guinea, 2019);
- address emissions from the land sector, including by combatting deforestation (Joint Statement, 2019), which could thus mitigate climate change, including by slowing down deforestation and moving to agroecological farming (CESCROB Statement, 2018);
- step up efforts to develop mechanisms and systems to ensure the sustainable use of natural resources (CCPR COB to Cabo Verde, 2019; CCPR GC36);
- take effective steps to equitably manage shared natural resources, such as addressing deforestation and soil degradation (CEDAW GR37; CRC COB to Niger, 2018).

On the **contribution of the private sector to climate change**, the HRTBs said States are required to:

- effectively regulate private actors to ensure that their actions do not worsen climate change and that they respect maximum air pollutant emissions limits (CESCROB Statement, 2018; CCPR GC36; CEDAW GR37; CRC COB to Spain, 2018);
- take the measures necessary to ensure that private sector actors remedy the impact of their operations on affected groups (CEDAW COB to Fiji, 2018; CEDAW GR37) and hold private actors accountable for harm they generate both domestically and extraterritorially (Joint Statement, 2019).

On the role played by **public and private financial flows in exacerbating the climate crisis**, States must:

- take the necessary measures to reduce public and private investment in the fossil fuel industry and ensure that it is compatible with the need to reduce greenhouse gas emissions (CESCROB to Switzerland, 2019; CRC LOIPR to Switzerland, 2019; CEDAW LOI to Sweden, 2019) and with climate-resilient development (Joint Statement, 2019);
- 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 (Joint Statement, 2019);

- reconsider the State party's funding of coal-fired power plants in other countries and ensure that they are gradually replaced by power plants using sustainable energy (CRC COB to Japan, 2019).

On **extra-territorial obligations**, the HRTBs provided that States must:

- establish safeguards to protect all groups from the negative impacts of fossil fuels, both in the State party as well as abroad, including when those impacts result from exports of fossil fuels (CRC COB to Norway, 2017; CEDAW COB to Australia, 2018);
- regulate private actors, including by holding them accountable for harm they generate both domestically and extra-territorially (Joint Statement, 2019).

Statements by the HRTBs on the Protection of Rights from the Impacts of Climate Change (Adaptation)

On **preventive measures protecting communities from climate impacts**, the HRTBs stated that:

- a failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States' human rights obligations (Joint Statement, 2019);
- States must implement the precautionary approach to

protect persons in the State Party (CCPR COB to Cabo Verde, 2019);

- States are to strengthen policies or programs to address the issues of climate change and disaster risk management, which must ensure the full and meaningful participation of communities at risk (CRC COB to Niger, 2018);
- States are required to strengthen the preparedness of communities, particularly those living in the South, to climate change and natural disasters (CESCR COB to Mauritius, 2019);
- States need to be extremely conscious in the development of programs and policies of the need to manage their environmental dimensions in order to reduce, to the maximum extent possible, the negative impacts of climate change (CRC COB to Grenada, 2010).

On **protecting rights through disaster risk reduction (DRR) and/or disaster preparedness**, the HRTBs recommended that States:

- adopt a human-rights-based approach based on a clear identification of rights and responsibilities to formulate and implement strategies and action plans on disaster response and risk reduction (CESCR COB to Bangladesh, 2018; CESCR COB to Mauritius, 2019; CEDAW GR37);
- enhance disaster preparedness, response and disaster risk reduction, including the

establishment of monitoring mechanisms, and allocate an adequate level of financial resources to this end (CESCR COB to Mauritius, 2019);

- strengthen the awareness of communities of disaster risk and prevention measures, as well as to move from risky to safe areas, and strengthen early warning systems, especially at community level (CRC COB to Mozambique, 2019);
- ensure that a gender perspective is integrated into national policies and programs on disaster response and climate change, such as setting up public funds to support families in the wake of disasters, creating a system for the immediate supply of basic necessities, and undertaking gender and women's rights impact assessments during the design, implementation, and monitoring phases of these policies (CEDAW COB to Fiji, 2018; CEDAW GR37);
- develop policies and programs to address new and existing risk factors for gender-based violence against women within the context of DRR (CEDAW GR37);
- in close consultation with representative organizations of persons with disabilities, establish a fully accessible and inclusive mechanism to engage with persons with disabilities in the implementation and monitoring of the Sendai Framework (CRPD COB to Australia, 2019);

- integrate human-mobility-related considerations into DRR policies and plans (CEDAW GR37).

On the **protection of groups in vulnerable situations from the effects of climate change**, the HRTBs underlined that States must:

- strengthen their social safety nets and social protection frameworks so as to mitigate the multiple social, economic, and environmental impacts of climate change more effectively (CRC COB to Jamaica, 2015);
- invest sufficient human, technical, and financial resources in health care, given the potential major public health burden of climate-change-related health risks (CRC COB to Tonga, 2019);
- address the impact of climate change on Indigenous Peoples more effectively while fully engaging Indigenous Peoples in related policy and program design and implementation (CESCR COB to Canada, 2016) to address the adverse effects of climate change on their land and resources (CESCR COB to Finland, 2014);
- specify, in consultation with Indigenous Peoples, measures to mitigate the effects of the climate crisis on their lands, territories, and resources, with a view to protecting their traditional ways of life and means of subsistence (CERD COB to Mexico, 2019) and strengthen dialogue with Indigenous Peoples on policies to address the climate crisis (CERD COB to El Salvador, 2019);
- place children's rights at the center of national and international climate change adaptation and mitigation strategies, including through new domestic climate strategy, and in the framework of international climate change programs and financial support (CRC COB to the United Kingdom, 2016);
- develop comprehensive disaster-sensitive social protection system strategies to reduce the vulnerabilities of and risks for children and families, including by mainstreaming child-specific and child-sensitive risk and vulnerability reduction strategies, for instance by increasing the physical safety of school infrastructure and establishing school-based programs such as early warning systems, among other



measures (CRC COB to the Solomon Islands, 2018);

- take into account the greater vulnerability of women in the face of natural disasters and climate change, especially those living in areas below sea level and women facing multiple and intersecting forms of discrimination (CEDAW COB to the Philippines, 2016);
- mainstream the concerns of women, particularly those of rural (and Amerindian) women and girls in all climate change policies and programs (CEDAW COB to Jamaica, 2012)
- adopt a human-rights-based approach at all decision-making levels of the adaptation and mitigation process (CEDAW COB to Australia, 2018; CEDAW GR37);
- take measures to address hunger and ensure food security for rural women in light of the effects of climate change (CEDAW COB to Cabo Verde, 2019), including temporary special measures with clear timelines to enhance access for women affected by natural disasters to their basic needs, such as education, food, water, housing, and natural resources (CEDAW COB to Nepal, 2018);
- ensure that the requirements of persons with disabilities, including children, are included in the design and implementation of all climate change adaptation and DRR policies

(CRPD COB to Seychelles, 2018; CRC COB to Palau, 2018) and mainstream disability in its climate change policies and programs, including through a specific protocol to mitigate the threats to persons with disabilities in situations of risk, with accessible early warning systems that incorporate sign language and Braille (CRPD COB to Honduras, 2017);

- ensure the protection of the rights of women and girls with disabilities, Indigenous and minority women and girls, lesbian, bisexual, transgender and intersex girls and women, older women, and those of other marginalized groups by including their rights in disaster health care policies and ensuring access to health services within disaster preparedness and response programs (CEDAW GR37).

On **data and analysis on impacts and vulnerabilities**, the HRTBs affirmed that States are required to:

- improve data and assessments to have an evidence base for DRR and preparedness and climate change policies, taking into account vulnerable groups (CRC COB to Solomon Islands, 2018; CEDAW COB to Saudi Arabia, 2018; CEDAW GR37);
- ensure that effective monitoring and reporting systems are established by collecting, analyzing, monitoring, and disseminating data across all

areas relevant to DRR, climate change, and gender equality and by including information in periodic reports on the legal frameworks, strategies, budgets, and programs that they have implemented to ensure the human rights of women are promoted and protected within climate change and DRR policies (CEDAW GR37; CEDAW COB to Cook Islands, 2018);

- conduct an assessment and address the impact of Cyclone Idai and Cyclone Kenneth on women and girls in the State party (CEDAW COB to Mozambique, 2019);
- collect disaggregated data identifying the types of risk faced by children, particularly considering the distinct needs and priorities of children with disabilities (CRC COB to Tonga, 2019; CRC COB to Japan, 2019), with a view to avoiding preventable death and injuries (CRC COB to Mauritius, 2015);
- improve data and assessments to have an evidence base for risk reduction and preparedness, particularly for the distinct needs and priorities of children with disabilities (CRC COB to Tonga, 2019).

On **migration and displacement due to climate change**, the HRTBs noted that states must:

- recognize and address the effects of climate change, environmental degradation, and natural disasters as drivers of (forced) migration (CMW

COB to Guatemala, 2019; Joint Statement, 2019);

- develop disaster management and mitigation plans in response to potential displacement and/or statelessness arising from environmental degradation and climate change and ensure that women, including those living on the outer islands, are included and may actively participate in planning and decision-making processes for those plans (CEDAW COB to Tuvalu, 2015);
- ensure migration and development policies are gender responsive and that they recognize the influence of disasters and climate change on these issues (CEDAW GR37);
- offer complementary protection mechanisms and temporary protection or stay arrangements for migrant workers displaced across international borders in the context of climate change or disasters and who cannot return to their countries (Joint Statement, 2019);
- with respect to the deportation of asylum seekers, continue to review the data on the effects of climate change in receiving States, since without robust efforts by States to address climate change, the effects of climate change in receiving States may expose individuals to a violation of their right to life, thereby triggering *non-refoulement* obligations of sending States (CCPR Views adopted on Teitiotia Communication, 2019).

Statements by the HRTBs Regarding States' Obligations Related to Procedural Rights

On **access to information, public participation, and access to justice**, the HRTBs said that States must:

- ensure an inclusive, multi-stakeholder approach, which harnesses the ideas, energy, and ingenuity of all stakeholders (Joint Statement, 2019);
- respect, protect, and fulfill the rights of all, including by mandating human rights due diligence and ensuring access to education, awareness raising, environmental information, and public participation in decision-making (Joint Statement, 2019);
- ensure that national and regional strategies and action plans, legislation, and programs on sustainable development, climate change, and disaster response and risk reduction are formulated and implemented with the meaningful and informed participation of affected communities and persons, such as persons with disabilities, women, and civil society (CESCR COB to Bangladesh, 2018; CRPD COB to Seychelles, 2018; CEDAW COB to Lao, 2018; CCPR COB to Cabo Verde, 2019);
- ensure that the special vulnerabilities and needs of children, as well as their views, are

taken into account in developing policies or programs addressing the issues of climate change, particularly droughts and disaster risk management (CRC COB to Guinea, 2019);

- develop toolkits for public consultation with children on issues that affect them (CRC COB to Australia, 2019) and place the rights and participation of children at the center of national and international climate change adaptation and mitigation strategies (CRC COB to Malta, 2019);
- maintain and strengthen the dialogue between the Ministry of the Environment and Indigenous Peoples' organizations, in particular on policies to deal with the climate crisis (CERD COB to El Salvador, 2019) and build on traditional, Indigenous, and local knowledge systems, as appropriate (CEDAW COB to Côte d'Ivoire, 2019; CESCR COB to Australia, 2009);
- specify, in consultation with Indigenous Peoples, measures that promote mitigation, compensation for damage or losses, and participation in the benefits of development projects; also specify measures to mitigate the effects of the climate crisis on their lands, territories, and resources with a view to protecting their traditional ways of life and means of subsistence (CERD COB to Mexico, 2019);
- ensure the effective participation of all women, including rural women, migrant women,



and women with disabilities, not only as those disproportionately affected by the effects of climate change and disasters, but as agents of change (CEDAW COB to Suriname, 2018) in the development and implementation of national policies and programs on agriculture, extractive industries, food security, climate change, disaster response, and risk reduction (CEDAW COB to Angola, 2019) at the local, national, regional, and international levels (CEDAW COB to Australia, 2018; CEDAW GR37);

- ensure access to justice for women by increasing awareness of available legal remedies and dispute resolution mechanisms, establishing appropriate and effective human rights

accountability mechanisms, and ensuring the availability of effective remedies in case of human rights violations by private actors, occurring from activities both inside and outside a State's territory (CEDAW GR37);

- provide appropriate access to information on environmental hazards (CCPR COB to Cabo Verde, 2019).

On **climate education and other forms of climate empowerment**, the HRTBs stated that States have to:

- provide women and girls with career counseling, scholarships, and other incentives, such as gender-focused community participation training (CEDAW COB to Chile, 2018), to orient them to and

inform them about subjects related to DRR and climate change and ensure equal access to these opportunities, as well as to the Green Climate Fund (CEDAW COB to Marshall Islands, 2018; CEDAW GR37);

- increase children's awareness and preparedness for climate change and natural disasters with active participation of schools, including by incorporating it into the school curriculum (CRC COB to Japan, 2019), and establish school-based programs such as early warning systems (CRC COB to Vanuatu, 2017);
- undertake measures to increase the knowledge of teachers and educators on environmental issues and climate change (CRC COB to Lesotho, 2018)

and include climate change adaptation and DRR in the school curriculum (CRC COB to Marshall Islands, 2018; CEDAW GR37);

- strengthen national gender and women's rights organizations and provide them with adequate resources, skills, and authority to carry out strategies to prevent and respond to disasters and mitigate the adverse effects of climate change (CEDAW GR37; CEDAW COB to Marshall Islands, 2018);
- invest in gender-responsive social protection systems and social services that reduce economic inequalities between women and men (CEDAW GR37; CEDAW COB to Australia, 2018).

Statements by the HRTBs Regarding States' Obligations Related to International Cooperation

On the **UNFCCC and related instruments**, the HRTBs have confirmed States must:

- comply with the obligations of the Paris Agreement (CESCR COB to Germany, 2018) and with commitments as a developed country under the UNFCCC and the Kyoto Protocol (CESCR COB to Australia, 2017);
- integrate and coordinate with other existing frameworks such as the UNFCCC, the 2030 Agenda for Sustainable Development, and the Sendai Framework to ensure a con-

sistent and effective approach in climate change initiatives (CEDAW GR37).

On the **Sustainable Development Goals**, the HRTBs have declared States have to:

- consider their human rights obligations in light of the goals and targets provided by the SDGs, particularly in relation to Goal 4 on ensuring quality education (CRC COB to Lesotho, 2018), Goal 5 on gender equality (CEDAW COB to Luxembourg, 2018), and Goal 13 on climate action (CRC COB to Palau, 2018; CEDAW COB to Fiji, 2018);
- develop a national action plan on business and human rights on the basis of the 2030 Agenda (CEDAW COB to Australia, 2018; CEDAW GR37);
- explore investment and employment opportunities for women through investments in renewable energy, while combating the adverse effects of climate change in the context of its efforts to implement Sustainable Development Goals 5, 7 (on affordable and clean energy), and 13 (CEDAW COB to Nigeria, 2017).

On **climate finance and international cooperation**, the HRTBs have reported that States must:

- cooperate 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 (Joint Statement, 2019);

- support adaptation and mitigation efforts in developing countries, by facilitating transfers of green technologies and by contributing to financing climate mitigation and adaptation (Joint Statement, 2019);
- ensure that its contribution to the Green Climate Fund is over and above the current level of official development assistance and is not to the detriment of development assistance in other areas (CESCR COB to Denmark, 2019) and ensure that women have equal access to the Green Climate Fund (CEDAW COB to Marshall Islands, 2018);
- allocate a budget for a mechanism implementing the Sustainable Development Goals (CEDAW COB to Luxembourg, 2018);
- consider the impact of foreign debt on the full enjoyment of women's rights (CEDAW COB to Mozambique, 2019);
- strengthen international cooperation and seek the support to which developing States are entitled in mitigating and responding to the effects of climate change, as well as in implementing the recommendations of the Concluding Observations (CESCR COB to Mauritius, 2019; CESCR Statement, 2018; CRC COB to Palau, 2018);

- continue and strengthen cooperation with bilateral, multi-lateral, regional, and international partners, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other relevant UN agencies, to enhance the implementation of the Convention, especially with respect to the constraints imposed by climate change (CRC COB to Tuvalu, 2013);
 - mainstream gender into international cooperation programs on DRR, sustainable development, and climate change and establish appropriate and effective human rights accountability mechanisms (CEDAW COB to South Korea, 2018; CEDAW GR37).
- In requesting **additional information** in future reporting, the HRTBs have asked States to:
- provide, in the next periodic report, information on: (a) the participation of women in the development and implementation of the plan; (b) best practices in adaptation and mitigation measures identified from a gender perspective (CEDAW COB to Oman, 2017).

List of Countries Coming Up for Review Between March and December 2020

CRC	Afghanistan, Andorra*, Azerbaijan*, Bolivia (Plurinational State of)*, Cambodia, Canada*, Cook Islands, Cuba, Cyprus, Czech Republic, Djibouti, Eswatini, France*, Germany*, Greece, Iceland*, Ireland*, Kiribati, Kuwait*, Madagascar, Micronesia (Federated States of), North Macedonia*, Mauritius*, New Zealand*, Philippines*, Somalia, Sweden*, Tunisia, Tuvalu, Ukraine*, Uzbekistan*, Viet Nam*
CEDAW	Azerbaijan(*), Bahrain, Denmark, Dominican Republic, Ecuador, Gabon, Germany*, Japan*, Kyrgyzstan, Maldives, Mongolia, Nicaragua(*), Panama, Senegal(*), South Africa(*), Sweden, Ukraine*, Uruguay, Yemen(*)
CESCR	Azerbaijan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Canada*, Chile*, Czech Republic*, Democratic Republic of the Congo*, El Salvador*, Finland, France*, Guatemala*, Italy*, Kuwait, Latvia, Luxembourg*, Nicaragua, Sweden*, Uzbekistan*, Yemen*
CCPR	Armenia*, Bolivia (Plurinational State of), Botswana, Burkina Faso*, Cambodia*, Central African Republic, Chad, China (Hong Kong)*, China (Macau)*, Dominica, Ethiopia*, Finland, Germany, Grenada*, Haiti(*), Iraq*, Ireland*, Israel, Japan, Kenya(*), Montenegro*, Nicaragua, Panama*, Peru, Philippines(*), Portugal, Qatar*, Russian Federation*, Seychelles*, Somalia*, Sri Lanka(*), Togo, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland*, Uruguay, Uzbekistan, Zambia*, Zimbabwe*
CERD	Azerbaijan, Bahrain, Belgium, Bolivia (Plurinational State of), Cameroon, Denmark, Estonia, France, Italy, Jamaica, Kazakhstan, Lebanon, Netherlands, Nicaragua, Niger, Senegal, Singapore, Switzerland, Thailand

**Indicates countries for which the HRTB will adopt a List Of Issues (LOI) or List Of Issues Prior to Reporting (LOIPR) in 2020*

()Indicates countries for which the HRTB will adopt both a LOI/LOIPR and its Concluding Observations in 2020*

Find more information on upcoming treaty body reviews here: bit.ly/HRTBReview

Women's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Elimination of Discrimination Against Women (2020 Update)



The Committee on the Elimination of Discrimination Against Women (CEDAW) is mandated to monitor the implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (ICEDAW), which has been ratified by 189 States. By ratifying the ICEDAW, States commit to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women,” including by guaranteeing the equality of men and women in their national constitutions or legislation and taking measures to eliminate discrimination against women in rural areas and in the fields of education, employment, healthcare, economic and social life, and marriage and family relations.

The Committee has three main functions: the State reporting procedure; General Recommendations and Statements; and the Communications procedure (a quasi-judicial complaints mechanism). This note describes the work of the CEDAW on climate change under each of those functions.

The CEDAW has not issued any decisions on climate change under its communications procedure, nor are there any pending cases before the CEDAW related to climate change.

General Recommendations and Statements

Prior to 2018, the CEDAW had referred to climate change briefly

in two General Recommendations (GRs) (General Recommendation No. 27 on older women and No. 34 on the rights of rural women), but had not done so in a comprehensive manner. In 2018, the CEDAW was the first human rights treaty body (HRTB) to adopt a General Comment focused on climate change, when it adopted General Recommendation No. 37 on [“the gender-related dimensions of disaster risk reduction in the context of climate change.”](#)

This important document explains how the ICEDAW applies in the context of disaster risk reduction and climate change, describing how women's rights are impacted by disasters and the greater risks, burdens, and impacts experienced

by many women and girls in the context of disasters due to pre-existing gender inequalities. The General Recommendation particularly emphasizes women's participation and empowerment in the context of climate change, highlighting women's role as agents of change: "The categorization of women and girls as passive 'vulnerable groups' in need of protection from the impacts of disasters is a

negative gender stereotype that fails to recognize the important contributions of women in the areas of disaster risk reduction, post-disaster management and climate change mitigation and adaptation strategies." The GR also stresses the importance of preventive measures, emphasizing that "limiting fossil fuel use and greenhouse gas emissions and the harmful environmental effects of extractive industries such as

mining and fracking, and the allocation of climate financing, are regarded as crucial steps in mitigating the negative human rights impacts of climate change and disasters."

The CEDAW also joined with four other HRTBs in adopting a landmark [Joint Statement on human rights and climate change](#) in September 2019.

Joint Statement by the CEDAW and four other HRTBs on human rights and climate change

The CEDAW, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on Migrant Workers, and the Committee on the Rights of Persons with Disabilities jointly adopted a statement on human rights and climate change in September 2019. The statement articulates the legal obligations of the 196 States that have signed the relevant UN human rights treaties (ICEDAW / women's rights, ICRC / children's rights, ICESCR / economic, social, and cultural rights, ICRPD / rights of persons with disabilities, and ICMW / rights of migrant workers), in the context of climate change.

The statement warns that climate impacts threaten the right to life, the right to adequate food, the right to adequate housing,

the right to health, the right to water, and cultural rights. It also underscores that some groups are more vulnerable to the risk of harm than others: "those segments of the population already marginalised or in vulnerable situations or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, such as women, children, persons with disabilities, indigenous peoples and persons living in rural areas." Further, it recognizes the agency of those most impacted by climate change and emphasizes an inclusive, multi-stakeholder approach with wide participation in climate policy-making.

The statement stresses that States must, as a matter of human rights law, implement emissions cuts reflecting the highest possible ambition, including by phasing out fossil fuels, promot-

ing renewable energy, combating deforestation, and ensuring financial flows, investments, and incentives are consistent with low-emissions pathways. It also underscores the obligations of States to regulate private actors and hold them accountable for climate harms occurring domestically and extraterritorially. It warns States that: "Failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States' human rights obligations."

The statement concludes by saying that the HRTBs will continue to "keep under review" the impacts of climate change on rights. Therefore, we can expect that climate change will continue to be a topic of focus in the work of the CEDAW.

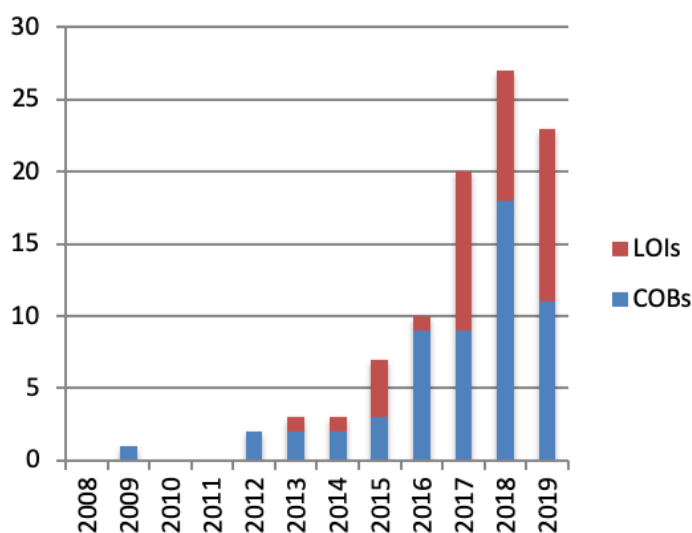


Figure 1: CEDAW's climate change references in Concluding Observations and Lists of Issues, 2008 – 2019

State Reporting Procedure

In its State reporting procedure, the CEDAW has been the most active HRTB on climate change, with a total of 57 climate-related Concluding Observations (COBs) and 39 climate-related Lists of Issues (LOIs) (see Figure 1). It adopted its first COB on climate change in 2009 to Tuvalu and has continued to gradually increase its attention to this issue through 2019, with 2018 being the high-point.

There was a slight drop in the number of climate COBs in 2019, but CEDAW was still the HRTB with the highest number of climate recommendations to States in that year.

Figure 2 shows the distribution of CEDAW's COBs referring to climate change between 2008 and 2019, according to the type of State.¹ Small Island Developing States (SIDS) and Least Developed Countries (LDCs) received the

highest number of climate recommendations from CEDAW (33 COBs). This group received 58% of all of CEDAW's climate COBs. For example, the CEDAW called on Cabo Verde to “ensure that women are meaningfully involved in the development of legislation, national policies and programmes

on climate change” (CEDAW, Cabo Verde, 2019).

33% of all SIDS and LDCs reviewed by CEDAW received a COB on climate, whereas only 10% of developed States and 14% of “other developing States” reviewed by CEDAW received a COB on climate. This proportion of SIDS and LDCs receiving climate recommendations is the highest among the HRTBs. CEDAW also has the lowest proportion of its climate COBs that were addressed to developed countries (12% of all climate COBs issued by CEDAW, compared to 55% by CESCR and 22% by CRC).

Figure 3 shows the categorization of CEDAW's climate COBs as mitigation, adaptation, international cooperation, procedural rights, and climate response measures. Figure 4 shows the further categorization according to sub-themes.

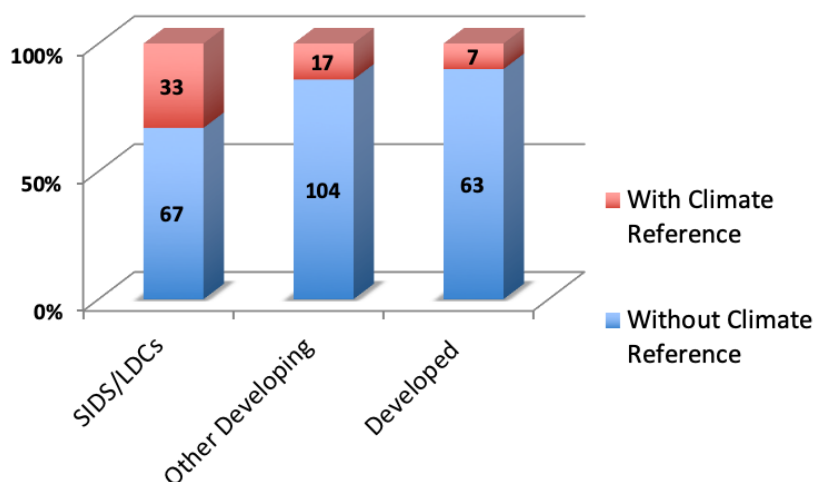


Figure 2: CEDAW's climate change references in Concluding Observations, by country type, 2008 – 2019

As can be seen, CEDAW addressed mitigation in only eight recommendations, which corresponds to only 14% of all COBs issued by CEDAW with a reference to climate change.

Nevertheless, the CEDAW has made very strong and specific recommendations to States on mitigation, addressing drivers of greenhouse gas emissions such as the export of fossil fuels, deforestation, and soil degradation and harmful activities of the private sector. For example, in 2017, CEDAW expressed its concern regarding the fact that “continuing and expanding extraction of oil and gas in the Arctic by the State party and its inevitable greenhouse gas emissions undermines its obligations to ensure women’s substantive equality with men, as climate change disproportionately impacts women” (CEDAW, Norway, 2017). Similarly, CEDAW called upon Guyana to “review its climate change and energy policies, particularly those relating to the extraction of oil and gas, and develop a disaster risk reduction strategy that takes into account the negative effects of climate change on gender equality and on the lives of women and their families” (CEDAW, Guyana, 2019).

CEDAW has also underlined the need to halt fracking due to its harmful effects on women and the environment, for instance recommending that the United Kingdom consider a “complete ban on fracking” (CEDAW, United Kingdom, 2019). More recently, CEDAW also expressed concerns about the climate impact of financial flows (CEDAW LOI to Switzerland, 2019).



Figure 3: CEDAW’s climate change references in Concluding Observations, by category, 2008 – 2019

To date, CEDAW has made only one recommendation that falls into the category of climate response measures. This category refers to measures taken by States to combat climate change that have had an adverse impact on human rights. CEDAW’s recommendation to Australia stated: “Adopt a human rights-based approach in the development of climate change responses” (CEDAW, Australia, 2018). It is surprising that this is the only recommendation from any of the HRTBs dealing with response measures, given that the HRTBs have often addressed human rights violations in the context of development projects. It is expected that this theme might receive more attention in the coming years, particularly as

the imperative of a just transition is increasingly recognized by States and stakeholders.

A high proportion of CEDAW’s climate recommendations addressed adaptation, which correlates with the high proportion of SIDS and LDCs who received climate recommendations from CEDAW. A large proportion of these recommendations on adaptation deal with disaster risk reduction (DRR), reflecting the heavy emphasis of CEDAW’s General Recommendation on disasters and DRR in the context of climate change.

For example, the CEDAW recommended that Mozambique “ensures that a gender perspective is integrated into the development

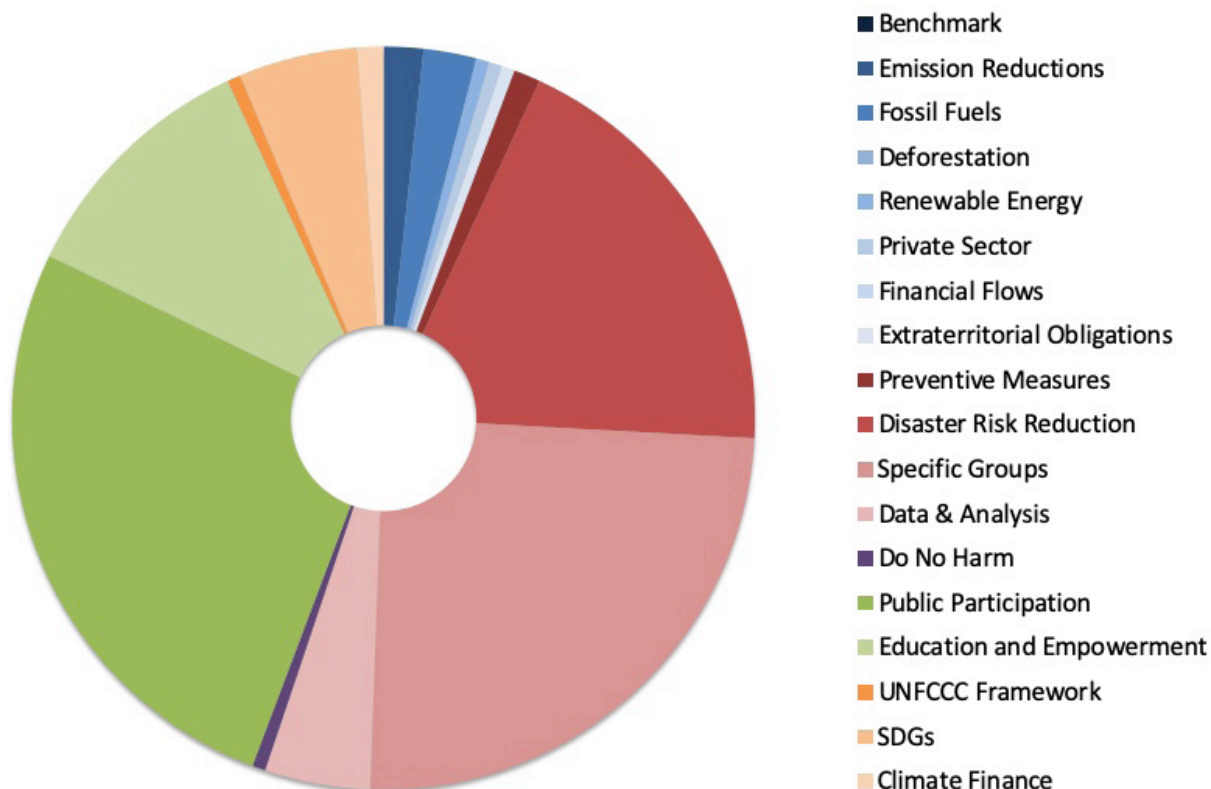


Figure 4: CEDAW’s climate change references in Concluding Observations, by sub-theme, 2008 – 2019

and implementation of policies and programmes on disaster risk reduction and climate change, conduct an assessment and address the impact of Cyclone Idai and Cyclone Kenneth on women and girls in the State party, consider the impact of foreign debt on the full enjoyment of women’s rights and adopt a new action plan on gender, environment and climate change” (CEDAW, Mozambique, 2019).

Further, the Committee gave a very detailed recommendation to Fiji to:

“ensure that women participate in the drafting of plans and strategies for disaster preparedness and that it:

(a) Set up public funds to support families in the wake of

disasters and create a system for the immediate supply of basic necessities, including water and sanitation, food and urgently needed medication, in case of emergency;

(b) Ensure that disaster preparedness plans include provision for setting up women-only shelters, where women can report cases of gender-based violence and obtain access to redress and rehabilitation” (CEDAW, Fiji, 2018).

As can be seen in Figure 4, a significant proportion of the recommendations on adaptation deal with the importance of addressing specifically the rights and interests of women in the context of climate change. The Committee also regularly highlighted the situation

of specific groups of women, such as Indigenous women (CEDAW, Suriname, 2018), Amerindian women (CEDAW, Guyana, 2019), pregnant women (CEDAW, South Korea, 2018), or rural women (CEDAW, Côte d’Ivoire, 2019; CEDAW, Cambodia, 2019).

For example, in relation to Suriname, the Committee recommended that the State “ensure the effective participation of women, in particular rural women, Maroon women and Indigenous women, in the formulation and implementation of policies and action plans on disaster risk reduction and climate change, not only because they are disproportionately affected by the effects of climate change and disasters but also as agents of change” (CEDAW, Suriname, 2018).

Procedural rights also received significant attention from CEDAW, and the majority of those recommendations dealt with the participation of women in climate policy-making. This is consistent with the very strong focus on women's participation in CEDAW's General Recommendation on the gender-related dimensions of disaster risk reduction in the context of climate change, which the Committee frequently references in its COBs. For example, the CEDAW recommended that Angola "ensure that all women, including rural women, migrant women and women with disabilities, are consulted in the development and implementation of national policies and programmes on agriculture, extractive industries, food security, climate change, disaster response and risk reduction" (CEDAW, Angola, 2019).

The Committee also urged Antigua and Barbuda to:

"ensure that the rights of women and girls are a primary consideration in devising measures relating to climate change and disaster response and risk reduction, and that such measures take into account the particular needs of disadvantaged groups of women, including older women, women with disabilities and migrant women;

(b) Continue to include an explicit gender perspective on all policies and programmes on climate change, disaster response and disaster risk reduction;

(c) Strengthen measures to ensure the effective participation of women in the development and implementation of policies and action plans on disaster risk

reduction, post-disaster management and climate change, and that women are represented in decision-making processes at all levels" (CEDAW, Antigua and Barbuda, 2019).

Compilation of Key CEDAW Statements on Climate Change

All Concluding Observations adopted by the CEDAW can be accessed here: bit.ly/CEDAWcobs.

Access the full General Recommendation 37 on "Gender-related dimensions of disaster risk reduction in the context of climate change" here: bit.ly/CEDAWGR37.

On the **reduction of emissions and the need to phase out fossil fuels (mitigation)**, the CEDAW has articulated that States must:

- limit fossil fuel use (CEDAW GR37);
- review climate change and energy policies, specifically their policy on extraction of oil and gas, to ensure they reflect the highest possible ambition (Joint Statement, 2019) and in order to prevent impacts on the life and health of women and girls, while working on a fundamental shift towards renewable sources of energy (CEDAW, Norway, 2017; South Korea, 2018; Guyana, 2019; CEDAW GR37);
- reduce greenhouse gas emissions, including those resulting from exports (CEDAW, Australia, 2018), and limit fossil fuels and the harmful environmental effects of extractive industries, such as mining and fracking (CEDAW GR37);

- review their policy on fracking and its impact on the rights of women and girls, and consider introducing a comprehensive and complete ban on fracking (CEDAW, United Kingdom, 2019);
- take effective steps to equitably manage shared natural resources and to address emissions from the land sector, including by combating deforestation (Joint Statement, 2019) and halting near-surface permafrost degradation and soil degradation (CEDAW GR37);
- regulate private actors, including by holding them accountable for harm they generate for affected groups both domestically and extraterritorially (Joint Statement, 2019; CEDAW, Fiji, 2018; CEDAW GR37);
- 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 (Joint Statement, 2019; CEDAW LOI to Sweden, 2019).

On the **protection of rights from the impacts of climate change (adaptation)**, the CEDAW indicated that the ICEDAW requires States to:

- ensure that an explicit gender perspective is integrated into the development and implementation of policies and programs on disaster risk reduction and climate change (CEDAW, Mozambique, 2019; Antigua and

Barbuda, 2019), including gender impact assessments (CEDAW, Australia, 2018);

- ensure that effective monitoring and reporting systems are established by collecting, analyzing, and disseminating data across all areas relevant to DRR, climate change, and gender equality (CEDAW GR37; CEDAW, Australia, 2018; Samoa, 2018);
- develop policies and programs to address new and existing risk factors for gender-based violence against women within the context of DRR (CEDAW GR37), including setting up women-only shelters, where women can report cases of gender-based violence and obtain access to redress and rehabilitation (CEDAW, Fiji, 2018);
- integrate human mobility considerations into DRR policies (CEDAW GR37);
- take into account the greater vulnerability of women in the face of natural disasters and climate change, especially those living in areas below sea level and women facing multiple and intersecting forms of discrimination, including rural and Amerindian women and girls (CEDAW, Philippines, 2016; Guyana, 2019);
- take measures to address hunger and ensure food security for rural women in light of the effects of climate change (CEDAW, Cabo Verde, 2019), including temporary special measures with clear timelines to enhance access for women affected by natural disasters to their basic needs, such as education, food, water, hous-

ing, and natural resources (CEDAW, Nepal, 2018);

- ensure the promotion and protection of the rights of women and girls with disabilities, Indigenous and minority women and girls, lesbian, bisexual, transgender, and intersex girls and women, older women, and those of other marginalized groups by including their rights in disaster healthcare policies and standards and ensuring access to health information and services within disaster preparedness and response programs (CEDAW GR37).

On **procedural rights**, the CEDAW recommended that States:

- ensure the effective and equal participation of all women, including rural and migrant women, older women, and women with disabilities, as agents of change (CEDAW, Suriname, 2018) in the

development and implementation of national policies and programs on agriculture, extractive industries, food security, climate change, disaster response, and risk reduction (CEDAW, Angola, 2019) at the local, national, regional, and international levels (CEDAW, Australia, 2018; CEDAW GR37).

- build on traditional, Indigenous, and local knowledge systems, as appropriate (CEDAW, Côte d'Ivoire, 2019);
- ensure access to justice for women by increasing awareness of available legal remedies and dispute resolution mechanisms, establishing appropriate and effective human rights accountability mechanisms, and ensuring the availability of effective remedies in case of human rights violations by private actors, occurring from activities both inside and outside a State's territory (CEDAW GR37);



©DFID/Russell Watkins

- ensure women have equal access to the Green Climate Fund (CEDAW, Marshall Islands, 2018);
 - strengthen women's rights by providing gender and women's rights organizations with adequate resources, skills, and authority to carry out DRR and response strategies to invest in gender-responsive social protection systems and services, reduce economic inequalities between women and men, and provide women with training opportunities in the area of DRR and climate change (CEDAW GR37; CEDAW, Australia, 2018; Chile, 2018; Marshall Islands, 2018);
 - step up efforts to empower rural women and women living in remote areas to cope with and adapt to climate change (CEDAW, Peru, 2014);
 - develop disaster management and mitigation plans in response to potential displacement and/or statelessness arising from environmental and climate change and ensure that women, including those living remotely, are included and may actively participate in planning and decision-making processes concerning such plans (CEDAW, Tuvalu, 2015).
- On **international cooperation and linkages with international frameworks**, the CEDAW has articulated that States must:
- integrate and coordinate with other existing frameworks such as the United Nations Framework Convention on Climate Change (UNFCCC), the 2030 Agenda for Sustainable Development, and the Sendai Framework, to ensure a consistent and effective approach in climate change initiatives (CEDAW GR37);
 - consider their human rights obligations in light of the goals and targets provided by the Sustainable Development Goals (SDGs), particularly in relation to Goal 5 on gender equality (CEDAW, Luxembourg, 2018) and Goal 13 on climate action (CEDAW, Fiji, 2018);
 - develop a national action plan on business and human rights on the basis of the 2030 Agenda (CEDAW, Australia, 2018; CEDAW GR37);
 - mainstream gender into international cooperation programs on DRR, sustainable development, and climate change and establish appropriate and effective human rights accountability mechanisms (CEDAW, South Korea, 2018; CEDAW GR37);
 - consider the impact of climate-related foreign debt on the full enjoyment of women's rights (CEDAW, Mozambique, 2019);
 - allocate a budget for a mechanism for implementing the SDGs (CEDAW, Luxembourg, 2018) and strengthen the role of women in implementing the 2030 Agenda for Sustainable Development (CEDAW, Iceland, 2016);
 - explore investment and employment opportunities for women through investments in renewable energy, while combating the adverse effects of climate change in the context of efforts to implement Sustainable Development Goals 5 on gender equality, 7 on affordable and clean energy, and 13 on climate action (CEDAW, Nigeria, 2017).

¹In this note, countries are categorized in line with the United Nations Framework Convention on Climate Change (UNFCCC) Annexes.



Women's Rights Obligations of States in the Context of Climate Change by The Center for International Environmental Law and The Global Initiative for Economic, Social and Cultural Rights is licensed under a Creative Commons Attribution 4.0 International License.

Cover image: Abbie Trayler-Smith/Panos Pictures/Department for International Development

Economic, Social, and Cultural Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on Economic, Social and Cultural Rights (2020 Update)



The Committee on Economic, Social and Cultural Rights (CESCR) is mandated to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been ratified by 166 States. By ratifying the ICESCR, States commit to take steps individually and through international cooperation and assistance, to the maximum of their available resources, with a view to progressively achieving the full realization of the economic, social, and cultural rights guaranteed in the ICESCR (article 2). The rights protected by the ICESCR include the rights to health, adequate housing, education, water, food, and culture.

The Committee has three main functions: the State reporting procedure; General Comments and Statements; and the Communications procedure (a quasi-judicial complaints mechanism). This note describes the work of the Committee on climate change under each of those functions.

To date, the CESCR has not issued any decision on climate change under its communications procedure, nor are there any pending cases before the CESCR addressing climate change.

General Comments and Statements

While the CESCR had mentioned climate change in its General

Comment No. 15 on the right to water in 2002 (paragraph 28), 2018 was the first time the Committee adopted a public statement specifically focused on climate change. Published in the context of the release of the Intergovernmental Panel on Climate Change (IPCC) Special Report on 1.5°C, the CESCR's [Statement on climate change and the ICESCR](#) describes the implications of climate change for economic, social, and cultural rights and States' obligations under the ICESCR in that context, including obligations owed to populations outside their territories. It underlines that "a failure to prevent foreseeable harm to human rights caused by climate change, or a failure to mobilize the maximum available resources in

an effort to do so, could constitute a breach of this obligation.” The statement stresses that national climate commitments under the Paris Agreement must reflect the “highest possible ambition” in order to be compatible with States’ human rights obligations.

The Statement also highlights States’ obligations to dedicate the maximum available resources to the adoption of measures that could mitigate climate change and, for high-income States, the duty of international cooperation requir-

ing them to contribute to climate finance and support developing countries in adaptation efforts. With respect to non-state actors, the Committee emphasized the duty of States to regulate private actors to ensure that their activities do not worsen climate change and to “adopt policies that can channel modes of production and consumption towards a more environmentally sustainable pathway.”

The CESCER also joined with four other human rights treaty bodies in adopting a landmark

[Joint Statement on human rights and climate change](#) in September 2019.

State Reporting Procedure

The CESCER was the first human rights treaty body (HRTB) to adopt a Concluding Observation (COB) on climate change, when in 2008 it recommended that Ukraine adopt “legislation on climate protection giving effect to the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change”

Joint Statement by the CESCER and four other HRTBs on human rights and climate change

The CESCER, the Committee on the Elimination of Discrimination Against Women, the Committee on the Rights of the Child, the Committee on Migrant Workers, and the Committee on the Rights of Persons with Disabilities jointly adopted a statement on human rights and climate change in September 2019. The statement articulates the legal obligations of the 196 States that have signed the relevant UN human rights treaties (ICEDAW / women’s rights, ICRC / children’s rights, ICESCR / economic, social, and cultural rights, ICRPD / rights of persons with disabilities, and ICMW / rights of migrant workers), in the context of climate change.

The statement warns that climate impacts threaten the right to life, the right to adequate food,

the right to adequate housing, the right to health, the right to water, and cultural rights. It also underscores that some groups are more vulnerable to the risk of harm than others: “those segments of the population already marginalised or in vulnerable situations or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, such as women, children, persons with disabilities, indigenous peoples and persons living in rural areas.” Further, it recognizes the agency of those most impacted by climate change and emphasizes an inclusive, multi-stakeholder approach with wide participation in climate policy-making.

The statement stresses that States must, as a matter of human rights law, implement emissions cuts reflecting the highest pos-

sible ambition, including by phasing out fossil fuels, promoting renewable energy, combating deforestation, and ensuring that financial flows, investments, and incentives are consistent with low-emissions pathways. It also underscores the obligations of States to regulate private actors and hold them accountable for climate harms occurring domestically and extraterritorially.

Echoing a commitment already made by CESCER in its 2018 statement, the joint statement concludes by saying that the human rights treaty bodies (HRTBs) will continue to “keep under review” the impacts of climate change on rights. Therefore, we can expect that climate change will continue to be a topic of focus in the work of the CESCER.

(CESCR, Ukraine, 2008). Since then, the number of references to climate change has grown steadily over time. The CESCR has made recommendations on climate change in 10.8% of all the State reviews it has undertaken between 2008 and 2019.

When references to climate change in the Lists of Issues (LOIs) are also counted, the CESCR has addressed climate change a total of 35 times (COBs and LOI/LOIPRs).

Analyzing the type of countries¹ receiving climate-related recommendations from the CESCR reveals that 11.4% of the Small Island Developing States (SIDS) and Least Developed Countries (LDCs) reviewed by the CESCR between 2008 and 2019 received a recommendation on climate, whereas the share amounted to 17.5% for developed countries and 5.4% for “other developing” countries (see Figure 2).

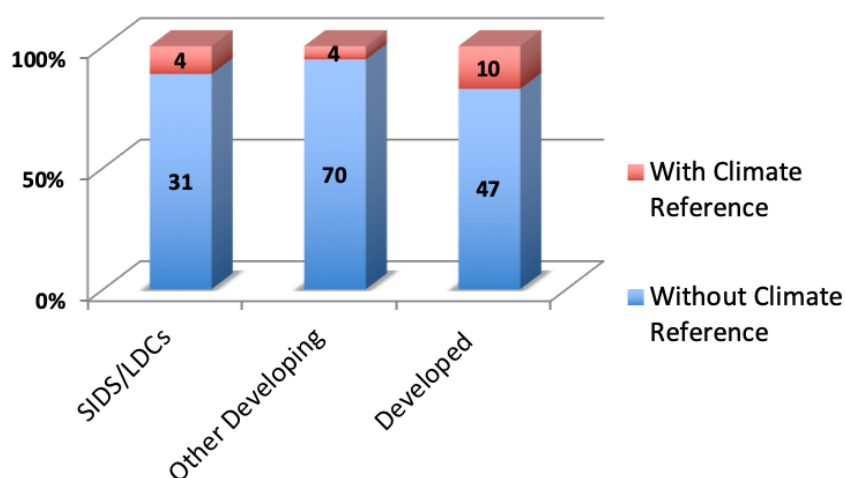


Figure 2: CESCR's climate change references in Concluding Observations, by country type, 2008 – 2019

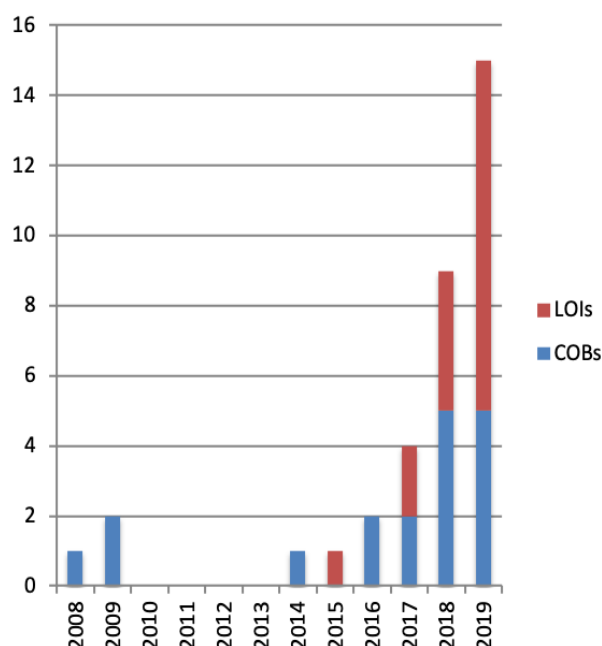


Figure 1: CESCR's climate change references in Concluding Observations and Lists of Issues, 2008 – 2019

Therefore, developed States were more likely to receive a climate recommendation from the CESCR than other States. Of all the climate recommendations by the CESCR, 55% were made to developed countries.

Figure 3 shows the categorization of CESCR's climate COBs as mitigation, adaptation, international cooperation, or procedural rights. Figure 4 shows the further categorization according to “sub-themes.” There is a relatively even spread between the four main categories for CESCR. This stands in contrast to the other HRTBs, whose recommendations have predominantly focused on the themes of adaptation, procedural rights, and international cooperation. The mitigation category was addressed in a significantly greater proportion of the CESCR's climate COBs than in those of the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Rights of the Child (CRC).

In its recommendations relating to mitigation measures, the CESCR has become increasingly specific in addressing the main drivers of the climate crisis in the respective countries (see Figure 4). The

Committee emphasized the need to take “immediate measures” to reduce greenhouse gas emissions pointing, for instance, to coal extraction and export, fracking, oil exploitation, deforestation, the harmful activities of private actors, and the role of finance in driving the use of fossil fuels.

The Committee has given equal attention to adaptation in its recommendations and focused less on procedural rights than the CEDAW or the CRC, both of which put a stronger emphasis on those elements. All of the CESCR COBs categorized under procedural rights focused on the participation of civil society in climate policy-making. An example of a CESCR recommendation on procedural rights is its recommendation to New Zealand to “put in place effective mechanisms to ensure meaningful participation of Māori in all decision-making processes affecting their rights” and ensure “its climate change policies are developed and implemented in partnership with Māori, including through their effective participation in the Climate Commission” (CESCR, New Zealand, 2018).

International cooperation received equal attention in the CESCR’s climate COBs as mitigation and adaptation. The COBs on international cooperation all linked to the United Nations Framework Convention on Climate Change (UNFCCC) framework, generally by referencing the State’s Paris Agreement commitments or the Nationally Determined Contribution that States must communicate periodically under the Agreement. Often those recommendations urged developing States to “seek international support and assis-

tance in order to mobilize the financial and technological support to which it is entitled in mitigating and responding to the effects of climate change” (Bangladesh, 2018). The CESCR also explicitly reminded developed states of their responsibility to provide climate finance over and above the current level of official development assistance.

It is surprising that the CESCR made no recommendations regarding “climate response measures.” This category refers to measures taken by States to combat climate change that have an adverse impact on human rights. The CESCR has in the past raised concerns about development projects that have adversely impacted economic, social, and cultural rights, but it has not addressed such issues explicitly for climate mitigation or adaptation projects. It is expected that this theme might receive more attention in the coming years, particularly as

the imperative of a just transition is increasingly recognized by States and stakeholders.

Compilation of Key CESCR Statements on Climate Change

All Concluding Observations adopted by the CESCR can be accessed here: bit.ly/CESCRcobs.

The CESCR’s statement on climate change and the ICESCR in the context of the IPCC Report on Global Warming of 1.5 degrees is available here: bit.ly/CESCR1o5c.

On the reduction of emissions and the need to phase out fossil fuels (mitigation), the CESCR has stated that States must:

- increase their efforts to reduce greenhouse gas emissions (CESCR, Germany, 2018) and set national targets with time-bound benchmarks (CESCR, Russia, 2017);



Figures 3: CESCR’s climate change references in Concluding Observations, by category, 2008 – 2019

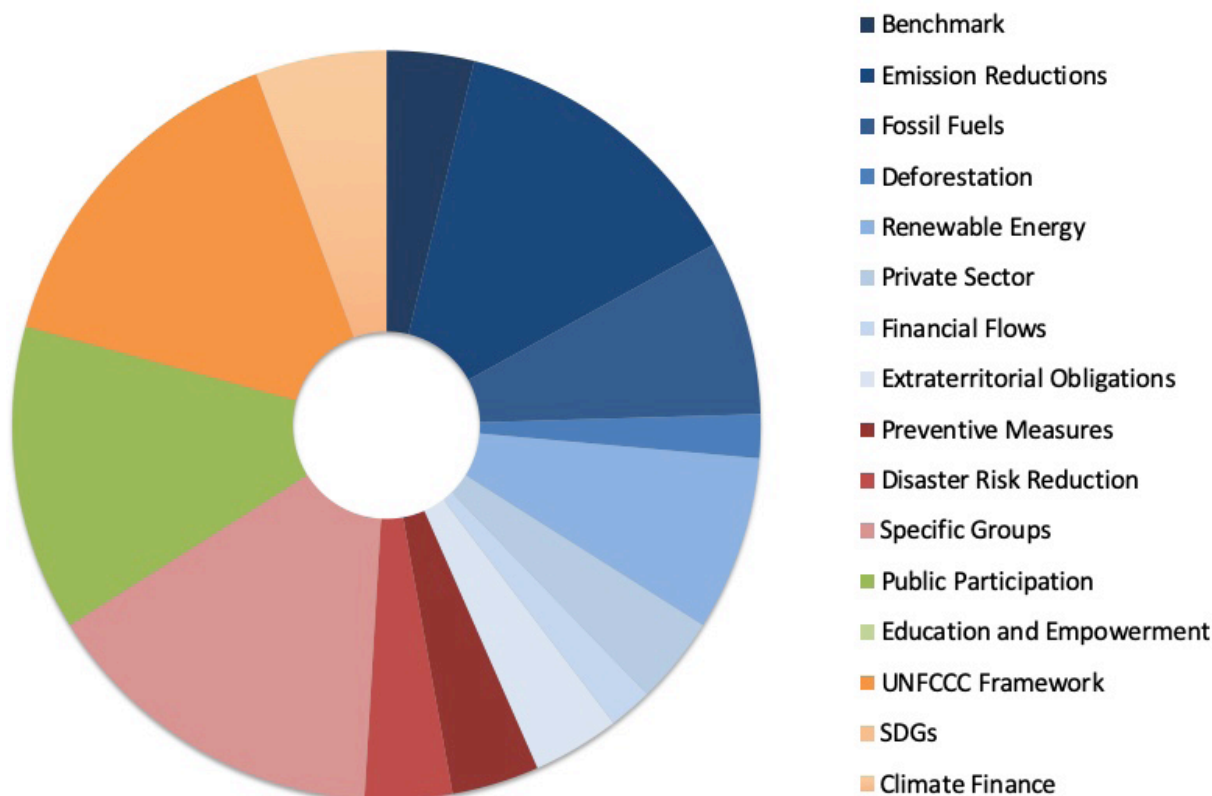


Figure 4: CESCR's climate change references in Concluding Observations, by sub-theme, 2008 – 2019

- | | | |
|---|---|---|
| <ul style="list-style-type: none"> intensify their efforts to achieve their greenhouse gas emissions reduction targets for 2020 and increase the target for 2030 to be consistent with the commitment to limit temperature increases to 1.5°C (CESCR, Switzerland, 2019); take immediate measures aimed at reversing the current trend of increasing absolute emissions of greenhouse gases and pursue alternative and renewable energy production (CESCR, Australia, 2017); effectively regulate private actors to ensure that their actions do not worsen climate change, hold them accountable for harm they generate both domestically and extra-territorially, and ensure that they respect maximum air pollutant emissions limits (Joint | <p>Statement, 2019; CESCR Statement);</p> <ul style="list-style-type: none"> ensure compliance with commitments made in the Paris Agreement in relation to the exploitation of fossil fuels (CESCR, Argentina, 2018) and reconsider the increase in oil exploitation and large-scale mining in the light of the State's commitments under the Paris Agreement (CESCR, Ecuador, 2019); review their position in support of coal mines and coal export (CESCR, Australia, 2017); dedicate the maximum available resources to the adoption of measures that could mitigate climate change, including addressing emissions from the land sector, such as slowing | <p>down deforestation and moving to agro-ecological farming (Joint Statement, 2019; CESCR Statement);</p> <ul style="list-style-type: none"> discontinue financial incentives or investments in activities and infrastructure, such as the fossil fuel industry, that are not consistent with low greenhouse gas emissions pathways and climate-resilient development, whether undertaken by public or private actors (Joint Statement, 2019; CESCR, Switzerland, 2019). <p>On the protection of rights from the impacts of climate change (adaptation), the CESCR requires States to:</p> <ul style="list-style-type: none"> ensure that strategies and action plans on climate change and disaster risk reduction are formulated and implemented |
|---|---|---|

on the basis of human rights (CESCR, Bangladesh, 2018; CESCR Statement);

- strengthen public policies and strategies aimed at mitigating the impact of natural disasters and climate change on the population (CESCR, Cabo Verde, 2018) and reduce the vulnerability of communities by increasing their preparedness and fostering prevention measures (CESCR, Mauritius, 2019);
- address the impact of climate change on Indigenous Peoples more effectively while fully engaging Indigenous Peoples in related policy and program design and implementation (CESCR, Canada, 2016) and address the adverse effects of climate change on their land and resources (CESCR, Finland, 2014).

On **procedural rights**, the CESCR affirmed that States are required to:

- ensure an inclusive, multi-stakeholder approach, which harnesses the ideas, energy, and ingenuity of all stakeholders (Joint Statement, 2019);

- respect, protect, and fulfill the rights of all, including by mandating human rights due diligence and ensuring access to education, awareness raising, environmental information, and public participation in decision-making (Joint Statement, 2019);
- ensure that national and regional strategies and action plans on climate change and disaster response and risk reduction are formulated with the meaningful participation of affected communities and civil society (CESCR, Bangladesh, 2018; CESCR Statement);
- ensure that the use of non-conventional fossil energies is preceded by consultation with affected communities and impact assessment processes (CESCR, Canada, 2016).

On **international cooperation and linkages with international frameworks**, the CESCR has articulated that States must:

- support adaptation and mitigation efforts in developing countries, by facilitating transfers of green technologies and

by contributing to financing climate mitigation and adaptation (Joint Statement, 2019);

- ensure that the contribution to the Green Climate Fund is over and above the current level of official development assistance and is not to the detriment of development assistance in other areas (CESCR, Denmark, 2019);
- strengthen international cooperation and seek the support to which developing States are entitled in mitigating and responding to the effects of climate change (CESCR, Mauritius, 2019; CESCR Statement);
- comply with the obligations of the Paris Agreement (CESCR, Germany, 2018) and with commitments as a developed country under the UNFCCC and the Kyoto Protocol (CESCR, Australia, 2017);
- cooperate in good faith in the establishment of global responses addressing climate-related loss and damage suffered by the most vulnerable countries (Joint Statement, 2019).

¹In this note, countries are categorized in line with the United Nations Framework Convention on Climate Change (UNFCCC) Annexes.



Economic, Social, and Cultural Rights Obligations of States in the Context of Climate Change by The Center for International Environmental Law and The Global Initiative for Economic, Social and Cultural Rights is licensed under a Creative Commons Attribution 4.0 International License.

Cover image: UN Photo/Kibae Park

Children's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Rights of the Child (2020 Update)



The Committee on the Rights of the Child (CRC) is mandated to monitor the implementation of the International Convention on the Rights of the Child (ICRC), which has been ratified by 196 States. By ratifying the ICRC, States commit to respect and ensure the rights protected by the Convention of each child within their jurisdiction without discrimination. The rights protected include the rights to life, health (including protection from the dangers of environmental pollution), education (including development of respect for the natural environment), privacy, family and home, an adequate standard of living, and cultural rights.

The Committee has three main functions: the State reporting pro-

cedure; General Comments and Statements; and the Communications procedure (a quasi-judicial complaints mechanism). This note describes the work of the Committee on climate change under each of those functions.

General Comments and Statements

The CRC mentioned climate change in General Comment No. 15 on health (2013) (paragraphs 5 and 50), saying that climate change “is one of the biggest threats to children’s health and exacerbates health disparities. States should, therefore, put children’s health concerns at the centre of their climate change adaptation and mitigation strategies.” It also

referred to climate change in its General Comment No. 20 on adolescence (2016) (paragraphs 2 and 12).

In 2016, the CRC held a Day of General Discussion on Children’s Rights and the Environment that discussed climate change. The Committee issued recommendations, including articulating that “States should understand their obligations to respect and protect children’s rights against global climate change. Such protection requires urgent and aggressive reductions in greenhouse gases, guided by the best available science.”

In September 2019, amidst the Fridays for Future climate mobilizations of children and youth

across the world, the CRC issued a statement voicing support for children campaigning on climate change and emphasizing that they have a legal right to have their views listened to and taken into account on issues concerning their future, such as climate change and the environment. Welcoming the active and meaningful participation of children as human rights

defenders, the Committee underlined in particular children's right to freedom of expression, protected by Article 13 of the ICRC.

Also in September 2019, the Committee joined with four other human rights treaty bodies (HRTBs) to adopt a landmark Joint Statement on human rights and climate change.

State reporting procedure

Climate change has been a topic of regular discussion in the CRC's review of States Parties' compliance with the ICRC since 2010, when it highlighted the impacts of climate change on children in its Concluding Observations (COBs) to Grenada (CRC, Grenada, 2010) and noted Japan's increased

Joint Statement by the CRC and four other HRTBs on human rights and climate change

The CRC, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination Against Women, the Committee on Migrant Workers, and the Committee on the Rights of Persons with Disabilities jointly adopted a statement on human rights and climate change in September 2019. The statement articulates the legal obligations of the 196 States that have signed the relevant UN human rights treaties (ICEDAW / women's rights, ICRC / children's rights, ICESCR / economic, social, and cultural rights, ICRPD / rights of persons with disabilities, and ICMW / rights of migrant workers) in the context of climate change.

The statement warns that climate change threatens the right to life, the right to food, the right

to adequate housing, the right to health, the right to water, and cultural rights. It also underscores that some groups are more vulnerable to the risk of harm than others: "those segments of the population already marginalised or in vulnerable situations or that, due to discrimination and pre-existing inequalities, have limited access to decision-making or resources, such as women, children, persons with disabilities, indigenous peoples and persons living in rural areas." Further, it recognizes the agency of those most impacted by climate change and emphasizes an inclusive, multi-stakeholder approach with wide participation in climate policy-making.

The statement stresses that States must, as a matter of human rights law, implement emissions cuts reflecting the highest possible ambition, including by phasing out fossil fuels, promot-

ing renewable energy, combating deforestation, and ensuring financial flows, investments, and incentives are consistent with low-emissions pathways. It also underscores the obligations of States to regulate private actors and hold them accountable for climate harms occurring domestically and extraterritorially. It warns States that: "Failure to take measures to prevent foreseeable human rights harm caused by climate change, or to regulate activities contributing to such harm, could constitute a violation of States' human rights obligations."

The statement concludes by saying that the HRTBs will continue to "keep under review" the impacts of climate change on human rights. Therefore, we can expect that climate change will continue to be a topic of focus in the work of the CRC.

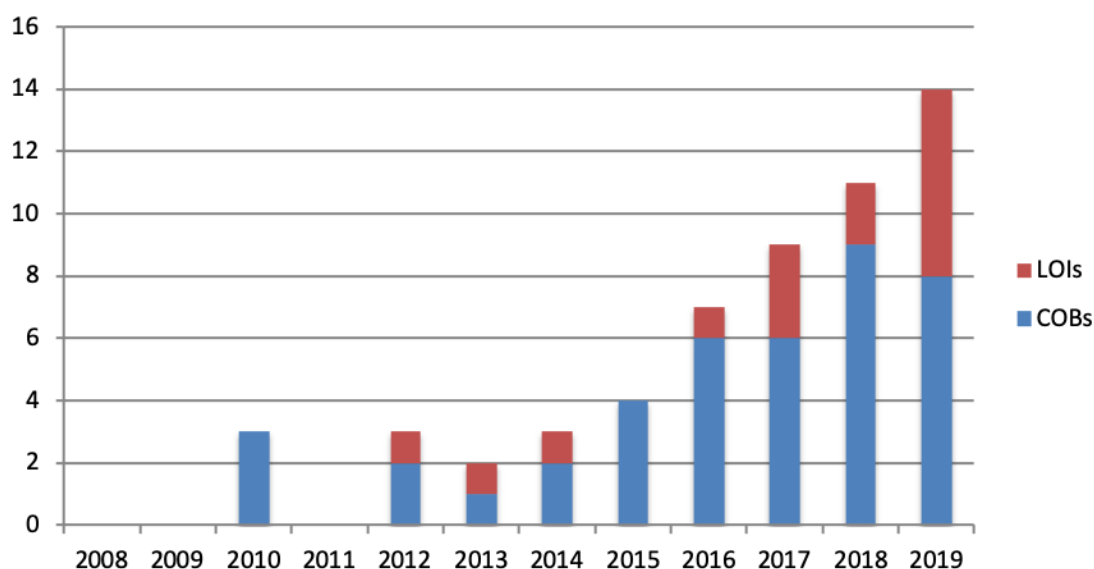


Figure 1: CRC's climate change references in Concluding Observations and Lists of Issues, 2008 – 2019

allocation of resources to assist developing countries with measures “against climate change” (CRC, Japan, 2010).

Between 2008 and 2019, the CRC issued 41 recommendations to States and 15 Lists of Issues (LOIs) addressing climate change. This means that 23% of all States reviewed by the CRC between 2008 and 2019 received a recommendation on climate.

As Figure 1 shows, the CRC's attention to climate change has grown steadily over time, peaking in 2019 with 14 total mentions of climate change (6 LOIs, 8 COBs) under its State reporting procedure. In 2019, 47% of all States reviewed by the CRC received a COB on climate change.

When the type of country¹ receiving the climate recommendations is considered, it can be seen in Figure 2 that the largest proportion of the COBs (22) on climate were made to Small Island Developing States (SIDS) and Least Developed

Countries (LDCs). This equates to 54% of the CRC's climate COBs going to SIDS and LDCs.

Many of those COBs pointed to the vulnerability of SIDS and LDCs to the impacts of climate change and urged those States to ensure children's participation in climate decision-making and to seek international assistance to

enable them to address climate change. For example, the CRC recommended that St. Vincent and the Grenadines “seek bilateral, multilateral, regional and international cooperation in the areas of disaster risk reduction, mitigation and adaptation to the effects of climate change” (CRC, St. Vincent and the Grenadines, 2017).

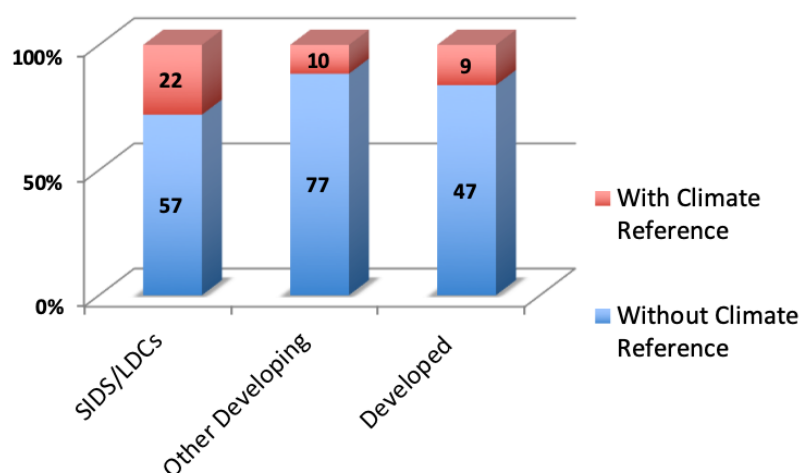


Figure 2: CRC's climate change references in Concluding Observations, by country type, 2008 – 2019

Over the 12 years covered by this research, the CRC made climate-related recommendations in 28% (22 COBs) of its reviews of SIDS and LDCs, while it made climate-related recommendations in only 16% (9 COBs) of reviews of developed countries and only 11% of reviews of other developing countries (10 COBs).

Figure 3 shows the CRC’s climate COBs categorized according to the following themes: mitigation, adaptation, procedural rights, and international cooperation.

The category that received the least attention in the CRC’s COBs was mitigation, with only ten COBs. The recommendations on mitigation ranged from reducing emissions by phasing out fossil fuel use, to transitioning to renewable energies, to regulating harmful practices by the private sector. The halting of deforestation and regeneration of land were also raised as mitigation measures, more than by any other Committee. Further, the CRC drew attention to the emissions caused by extraterritorial investments in its COBs to Japan calling on the country to “reconsider [its] funding of coal-fired power plants in other countries and ensure that they are gradually replaced by power plants using sustainable energy” (CRC, Japan, 2019).

As can be seen, 32 of the CRC’s climate COBs focused on adaptation, often providing detailed recommendations as to which measures should be taken by the State to protect the rights of communities at risk. An example is the CRC’s COB to Niger, recommending that the State party “take



Figure 3: CRC’s climate change references in Concluding Observations, by category, 2008 – 2019

measures to strengthen policies or programmes to address the issues of climate change and disaster risk management” and that such policies and programs “include measures to protect children’s rights to housing, sanitation, food, water and health and ensure the full and meaningful participation of communities at risk, including children, at both the national and the regional levels” (CRC, Niger, 2018).

The next most commonly addressed categories were procedural rights and international cooperation, both of which were addressed in 28 COBs. The importance of children’s participation in climate policy-making was regularly emphasized, including in its COB to Australia, in which the Com-

mittee expressed “concern and disappointment that the protest of children calling on government to protect the environment received a strongly worded negative response from those in authority, which demonstrates disrespect for their right to express their views on this important issue” (CRC, Australia, 2019).

Figure 4 shows the further categorization of the CRC’s climate COBs according to sub-themes.

In the category of procedural rights, the sub-themes of public participation and of education and empowerment both received significant attention from the Committee. Many of the CRC climate recommendations called for children’s participation in

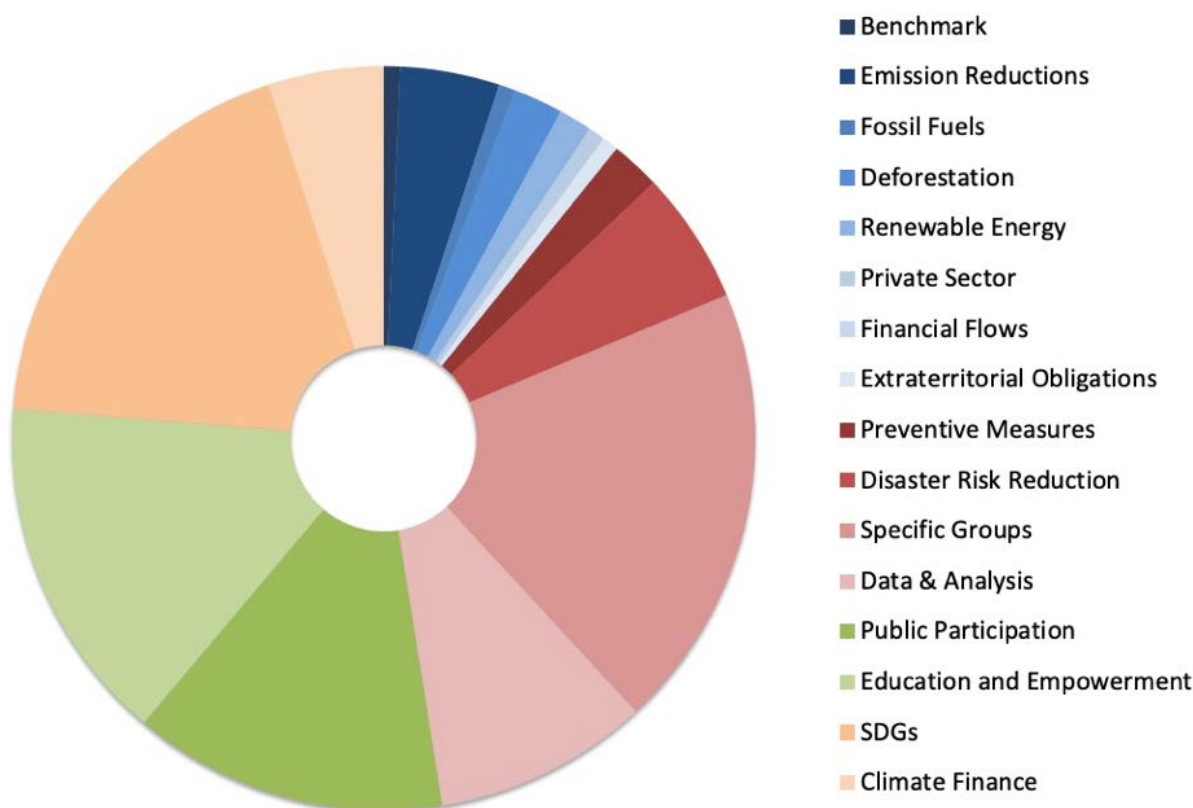


Figure 4: CRC’s climate change references in Concluding Observations, by sub-theme, 2008 – 2019

climate and disaster decision-making. For example, the Committee asked Mozambique to “ensure that the specific vulnerabilities and needs of children, as well as their views, are taken into account in the development of policies or programmes addressing the issues of climate change and disaster risk management” (CRC, Mozambique, 2019).

States were also frequently urged (21 times) to ensure that children receive education on climate change. For example, the Committee recommended that Palau “include climate change adaptation and disaster-risk reduction in the school curriculum and establish school-based programmes, such as early warning systems and training on what to do in the event of a natural disaster” (CRC, Palau, 2018).

The vast majority of the COBs in the international cooperation category focused on the link with the Sustainable Development Agenda. The Committee commonly drew the State’s attention to target 13B (regarding climate action) of the Sustainable Development Goals (SDGs) (e.g., CRC, Guatemala, 2018) and sometimes to target 3.9 (regarding air pollution) (e.g., CRC, Belgium, 2019).

The CRC was less likely to raise the topic of climate finance and when it did, the recommendations mostly addressed SIDS and LDCs, suggesting that they seek international assistance to support their mitigation and adaptation efforts. It made one recommendation to a developed State on increasing climate finance commitments (CRC, United Kingdom, 2016).

Communications Procedure

The CRC has not issued any decisions on climate change under its communications procedure. However, one petition focusing exclusively on issues related to climate change has been submitted to the CRC.

Children’s climate petition to the UN Committee on the Rights of the Child

On September 23, 2019, 16 children filed a complaint against Argentina, Brazil, France, Germany, and Turkey under the Third Optional Protocol to the ICRC. These countries were targeted for being members of the G-20 and for having ratified the Third Optional Protocol to the ICRC, enabling

the submission of individual petitions to the CRC against those States. The petitioners allege that in knowingly causing and perpetuating climate change, the States have failed to take the necessary measures to respect, protect, and fulfill the children's rights to life (Article 6), health (Article 24), and culture (Article 30) under the Convention. In addition, the petitioners claim that the adoption of climate policies that merely delay decarbonization effectively shifts the burden of climate change onto future generations, amounting to a violation of their right to have children's best interests be a primary consideration in actions that concern them (Article 3).

By way of relief, the petitioners seek findings that, by recklessly perpetuating life-threatening climate change in disregard of scientific evidence, the respondent States are violating the petitioners' rights to life, health, culture, and the prioritization of the child's best interests. They also seek recommendations that the respondent States:

- review and amend their laws and policies to ensure that mitigation and adaptation efforts are accelerated in order to protect the petitioners' rights;
- initiate cooperative international action to establish binding and enforceable measures to mitigate the climate crisis and prevent further harm to children; and
- ensure the children's right to be heard and to express their

views freely, in all efforts to mitigate or adapt to the climate crisis.

The Committee has registered the communication as five separate cases, one against each of the five States. At the time of publication of this synthesis note, the CRC had not yet released a decision regarding the admissibility and merits of the petitions.

The average length of time between the submission of communications to the CRC and the adoption of the decision is currently approximately two years.

Compilation of Key CRC statements on climate change

All Concluding Observations adopted by the CRC can be accessed here: bit.ly/CRCcobs.

On **the reduction of emissions and the need to phase out fossil fuels (mitigation)**, the CRC has stated that States must:

- reduce emissions of greenhouse gases in line with international commitments to avoid a level of climate change threatening the enjoyment of children's rights, particularly the rights to health, food, and an adequate standard of living (CRC, Japan, 2019) and in a manner that reflects the highest possible ambition (Joint Statement, 2019);
- establish safeguards to protect children, both domestically and extraterritorially, from the negative impacts of fossil fuels (CRC, Norway, 2018) by ensuring that their specific vulnerabilities, needs, and views

are taken into account (CRC, Belgium, 2019);

- strictly regulate maximum air pollutant emissions, including those produced by private businesses (CRC, Spain, 2018), and hold private actors accountable for the harms they generate both domestically and extraterritorially (Joint Statement, 2019);
- develop a comprehensive national plan to reduce emissions of greenhouse gases by establishing targets and deadlines to phase out the domestic use and export of coal and accelerate the transition to renewable energy, including by committing to meeting 100% of their electricity needs with renewable energy (CRC, Australia, 2019);
- take measures to strengthen policies to address issues related to climate change, including stopping deforestation (CRC, Haiti, 2016), boosting solar energy, replanting trees, and regenerating land (CRC, Niger, 2018);
- 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 (Joint Statement, 2019), including reconsidering the funding of coal-fired power plants in other countries (CRC, Japan, 2019);
- set out a clear legal commitment, with appropriate technical, human, and financial

resources, to scale up and expedite the implementation of plans to reduce air pollution levels, particularly coming from road transport (CRC, United Kingdom, 2016) and in areas near schools and residential areas (CRC, Malta, 2019);

- provide information about measures to reduce emissions in relation to the aviation and transport sector (CRC, LOIPR to Switzerland, 2019).

On the protection of rights from the impacts of climate change (adaptation), the CRC requires States to:

- place children's rights at the center of national and in-

ternational climate change adaptation and mitigation strategies, including through their domestic climate strategy, and in the framework of their international climate change programs and financial support (CRC, United Kingdom, 2016);

- collect disaggregated data identifying the types of risks faced by children, particularly children with disabilities (CRC, Solomon Islands, 2018), to a variety of disasters in order to formulate responses accordingly (CRC, Cabo Verde, 2019);
- reduce the vulnerabilities of and risks for children and families, including by main-

streaming child-specific and child-sensitive risk and vulnerability reduction strategies, for instance, by increasing the physical safety of school infrastructure and establishing school-based programs such as early warning systems (CRC, Solomon Islands, 2018);

- review emergency protocols to include assistance and other support to all children, particularly those with disabilities, during emergencies and natural disasters (CRC, Tonga 2019);
- strengthen the awareness of communities on disaster risk and prevention measures, as well as the need to move from risky to safe areas, and



©Adam Patterson/Panos/DFID

strengthen early warning systems, especially at the community level (CRC, Mozambique, 2019);

- strengthen their social safety nets and develop disaster-sensitive social protection frameworks so as to mitigate more effectively the multiple social, economic, and environmental impacts of climate change (CRC, Jamaica, 2015; CRC, Solomon Islands, 2018);
- invest sufficient human, technical, and financial resources in healthcare (CRC, Tonga, 2019) and routinely undertake health impact assessments, with particular attention to children, to inform legislation and policies related to climate change (CRC, New Zealand, 2016).

On **procedural rights**, the CRC affirmed that States are required to:

- develop toolkits for meaningful public consultation with children on issues that affect them (CRC, Australia, 2019) and place the rights and

participation of children at the center of national and international climate change adaptation and mitigation strategies (CRC, Malta, 2019);

- increase children's awareness of and preparedness for climate change and natural disasters with the active participation of schools, including by incorporating climate change into the school curriculum (CRC, Japan, 2019) and in teacher training programs (CRC, Samoa, 2016);
- ensure access to schools that are being or are likely to be affected by severe weather events, especially for those in remote or rural communities, and consider alternative methods of teaching (CRC, Vanuatu, 2017).

On **international cooperation and linkages with international frameworks**, the CRC has articulated that States must:

- consider their human rights obligations in light of the goals and targets provided by the Sustainable Development

Goals, particularly in relation to Goal 4 related to ensuring quality education (CRC, Lesotho, 2018) and Goal 13 related to climate action (CRC, Palau, 2018);

- seek the necessary technical and financial assistance from and cooperation with relevant international, regional, and bilateral partners to enable the progressive and full implementation of the Convention (CRC, Tuvalu, 2013);
- cooperate 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 (Joint Statement, 2019);
- support adaptation and mitigation efforts in developing countries, by facilitating transfers of green technologies and by contributing to financing climate mitigation and adaptation (Joint Statement, 2019).

¹In this note, countries are categorized in line with the United Nations Framework Convention on Climate Change (UNFCCC) Annexes.



Children's Rights Obligations of States in the Context of Climate Change by The Center for International Environmental Law and The Global Initiative for Economic, Social and Cultural Rights is licensed under a Creative Commons Attribution 4.0 International License.

Cover image: UN Photo/Eskinder Debebe

Human Rights Obligations of States in the Context of Climate Change

The Role of the Human Rights Committee



The Human Rights Committee (CCPR) is mandated to monitor the implementation of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by 173 States. By ratifying the ICCPR, States commit to respect and ensure, without discrimination, the rights to life, privacy, family, and home, the right to take part in public affairs and to freedom of expression and assembly, the freedom from cruel, inhuman, or degrading treatment, and the cultural rights of ethnic, religious, or linguistic minorities, among others.

The Committee has three main functions: the State reporting procedure, General Comments and Statements, and the Communica-

tions procedure (a quasi-judicial complaint mechanism). This note describes the work of the Committee on climate change under each of those functions.

General Comments and Statements

In 2018 the Human Rights Committee adopted a new General Comment No. 36 on the right to life, which includes an important paragraph regarding climate change. Paragraph 62 states, “Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life.” Further, the General Com-

ment notes that “States parties are thus under a due diligence obligation to undertake reasonable positive measures, which do not impose on them disproportionate burdens, in response to reasonably foreseeable threats to life originating from private persons and entities, whose conduct is not attributable to the State.”

This is a significant advance in the Committee’s guidance regarding the interpretation of the right to life in the context of climate change and environmental degradation. We are already seeing advocates and victims referencing this General Comment to support their claims for States to address the climate impacts on their right to life.

State Reporting Procedure

For the CCPR, 2019 was the first year that it made recommendations to States on climate change. The CCPR made a climate recommendation to Cabo Verde and addressed climate in its Lists of Issues to three States (United States, Dominica, and Cabo Verde). For example, the Committee urged Cabo Verde to:

“as a small island state particularly vulnerable to climate change... step up efforts to develop mechanisms and systems to ensure sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments, provide appropriate access to information on environmental hazards and implement the

precautionary approach to protect persons in the State Party, including the most vulnerable, from the negative impact of climate change and natural disasters...” (CCPR, Cabo Verde, 2019)

For each of these recommendations or questions, the Committee’s concerns on climate change related to the right to life. However, for Dominica, the Committee also referenced articles 17 (the right to privacy, family, and home) and 25 (the right to vote and take part in public affairs) of the ICCPR.

Communications Procedure

The CCPR has issued one decision regarding climate change in the context of deportation of a foreign

national (*Teitiota v New Zealand*, Communication No. 2728/2016). There is also one case on climate change that has been submitted to the Committee and is pending adjudication (Communication No. 3624/2019).

States’ non-refoulment obligations in the context of climate change - Decision

In January 2020, the CCPR adopted its decision in a case against New Zealand brought by a Kiribati man and his family who claimed that his right to life was violated when he was deported to Kiribati, since the impacts of climate change in Kiribati posed an imminent threat to their lives. The petitioner presented evidence in his claim for asylum in national courts, describing rising sea levels,



coastal erosion, reduction in habitable land, salination of water supplies, lack of access to drinking water, reduced ability to grow food crops, and over-crowding and violent land disputes. The national Courts and the Committee accepted his claim that due to sea level rise, Kiribati would be uninhabitable in 10-15 years' time.

Whilst ultimately rejecting his petition, the Committee accepted that the impacts of climate change could expose people to violations of the right to life under the ICCPR and trigger State obligations not to deport people. Signaling that future cases might be decided differently as the impacts of climate change worsen, the Committee explicitly noted New Zealand's obligation in future deportation cases to consider new and updated data on the effects of climate change in Kiribati.

Two Committee members — Ms. Vasilka Sancin and Mr. Duncan

Laki Muhumuza — published notable dissenting opinions in the case, with the latter admonishing the actions of New Zealand as akin to “forcing a drowning person back into a sinking vessel, with the ‘justification’ that after all there are other voyagers on board.”

Communication against Australia by a group of Torres Strait Islanders - Pending

In May 2019, a group of Torres Strait Islanders lodged a complaint with the CCPR against Australia in relation to climate-induced rising seas, tidal surges, coastal erosion, and inundation of communities in the Torres Strait Islands in the north of Australia. The Islanders claim that Australia's failure to reduce emissions, combined with the absence of adequate climate adaptation measures, violates their fundamental human rights, including their rights to life and culture.

The petition describes the serious impacts of climate change on the island life of the Torres Strait Islanders, highlighting how climate change is threatening their homes, land, food sources, water sources, cultural sites, and practices. Ultimately, they claim, climate change will forcibly displace the Torres Strait Islanders to mainland Australia, away from their land and sea territories, to which their culture is inextricably linked. The Islanders are seeking remedies for the violations of their rights to life (article 6) and culture (article 27), occasioned by Australia's failure to effectively mitigate and adapt to climate change.

This case has been registered by the Committee and, after the exchange of documents by the parties, will be considered at a future session of the Committee. The average time for a decision in cases submitted to the CCPR is currently approximately four years.



Human Rights Obligations of States in the Context of Climate Change by The Center for International Environmental Law and The Global Initiative for Economic, Social and Cultural Rights is licensed under a Creative Commons Attribution 4.0 International License.

Cover image: Tri Saputro/CIFOR

As governments and intergovernmental organizations have recognized, climate change has adverse impacts on a wide range of human rights. Consequently, States must uphold their existing human rights obligations defined under legally binding treaties in the context of climate change and climate policies. These obligations require that climate policies effectively protect the rights of those most affected by the climate crisis and that States take preventive steps to avoid the most dangerous levels of temperature increase. They also require that the design of these policies builds on the principles of non-discrimination and meaningful public participation.

Human rights treaty bodies — established to monitor the implementation of the United Nations human rights treaties — have a critical role to play in further elaborating on the obligations of States to respect, protect, and fulfill human rights in the context of climate change. For more than a 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 provides an overview of States' obligations under the different human rights instruments in the context of climate change, offering a compendium of the authoritative statements delivered by the human rights treaty bodies on these issues since 2008.

March 2020

Since 1989, the **Center for International Environmental Law (CIEL)** has used the power of law to protect the environment, promote human rights, and ensure a just and sustainable society.

The **Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)** is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens.

States' Human Rights Obligations in the Context of Climate Change: 2020 Update by The Center for International Environmental Law and The Global Initiative for Economic, Social and Cultural Rights is licensed under a Creative Commons Attribution 4.0 International License.

Authors: Lucy Mckernan (GI-ESCR), Chiara Arena and Sébastien Duyck (CIEL), with research support by Jolein Holtz (CIEL)

Editing: Marie Mekosh (CIEL)

Layout: Taylor Black (CIEL)

Cover image:
Mark Dixon via Flickr

