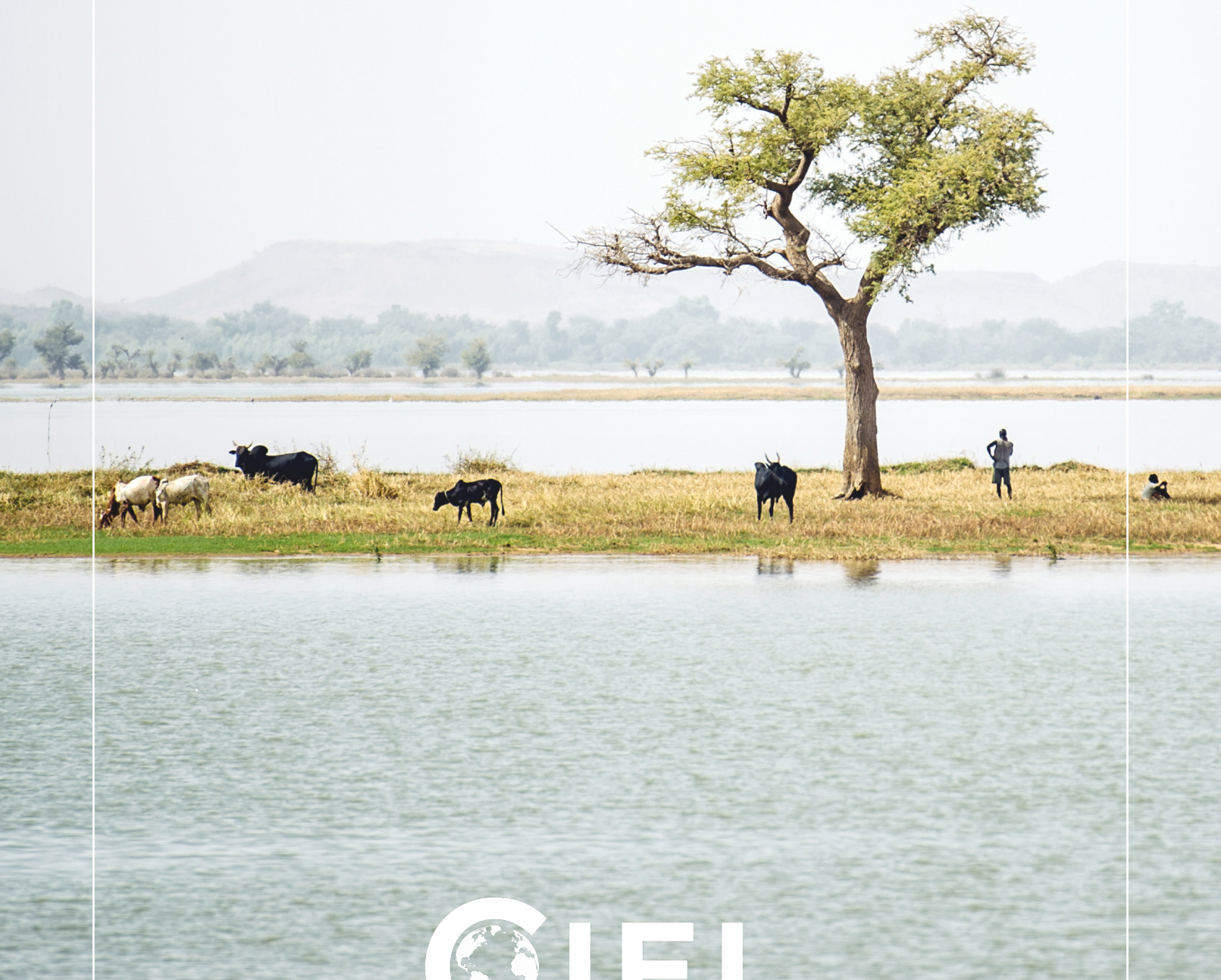


FUNDING OUR FUTURE

Five Pillars for Advancing Rights-Based
Climate Finance



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ENVIRONMENTAL LAW

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FIVE PILLARS FOR ADVANCING RIGHTS-BASED CLIMATE FINANCE

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Executive Summary

Confronting climate change may be the costliest challenge the world has ever faced. Responding to an accelerating global crisis of the scale, scope, severity, and urgency of the climate emergency requires an unprecedented mobilization of resources. Drastic reductions in greenhouse gas emissions, urgent adaptation to rapidly changing climate conditions, and equitable remediation of the mounting loss and damage caused by global warming each demand significant sums of money.

Climate finance is a colloquial term for the billions to trillions of dollars mobilized to address these needs. Since the adoption of the United Nations Framework Convention on Climate Change (UNFCCC) in 1992, climate finance has been a core part of global climate governance, with a focus on the provision of financial support by developed countries most responsible for the climate crisis to developing countries least responsible for it and most adversely affected by it. Subsequent agreements, including the Paris Agreement, have reinforced this focus. Financial resources — both public and private — are essential to achieving the principal goal of the international climate regime: avoiding dangerous anthropogenic interference with the global climate system, and in so doing, protecting and promoting human rights.

It takes more than tacking a “climate” label onto funding to ensure that it furthers this goal and advances human rights. The success of climate finance in respecting, protecting, and fulfilling human rights in the face of the climate crisis depends on the volume of funds mobilized, their distribution, the form the funding takes, the activities it supports, and the way those activities are implemented. This report examines those five elements essential to assessing the rights-compatibility of public finance for climate action, with a particular focus on the last element: how the planning, implementation, and evaluation of funded projects can and should adhere to human rights law.

While private finance has both a role to play in actions to curtail and adapt to climate change and a responsibility to respect human rights in those actions, this report focuses primarily on public finance. That focus reflects the central obligation and unique capacity of governments to respond to, and shape solutions to, public crises. States have a duty to act in the public

interest and to respect, protect, and fulfil human rights, through their own conduct and through adequate regulation of private actors.

To advance human rights, climate finance must be:

1. **Ambitious: The volume of funds mobilized must be commensurate with the scale and scope of the crisis.** Providing adequate, predictable climate finance is both a moral and a legal obligation of developed countries. This finance should be new and additional to existing official development assistance, and transparently reported to enable accurate assessment of the remaining funding gap.
2. **Equitable: The distribution of the funds must prioritize those countries and communities most vulnerable to the adverse impacts of global warming and with the fewest resources to cope.** The allocation of climate finance should seek to rectify, rather than reinforce, existing inequities in access to finance. Across climate finance vehicles, access to the funding available, especially at the local level, remains a critical challenge. Direct access and small grants programmes can enable more flexible approaches to climate action that prioritize involvement of a broader range of actors. Funding locally relevant projects with a multitude of smaller-scale impacts can have an outsized footprint, in terms of both the efficacy and the equity of the activities supported.
3. **Fair: The terms of financing must not exacerbate structural inequalities or add to recipient countries’ debt burdens.** Money transferred from developed to developing countries as climate finance should not *indebt* low-income countries to the rich nations responsible for the climate crisis. Climate finance should reduce the “climate debt” owed by the Global North to the Global South after centuries of exploitative relationships and excessive pollution, not generate new financial debt for the countries most threatened by climate change — countries that often have the fewest resources and the greatest exposure to other crises as well. To rectify the skewed ecological balance sheet between Global North and South, climate finance must not compound existing vulnerabilities or intensify the economic woes of those it

is designed to benefit. Thus, public climate finance should be provided as grants, rather than as loans (whether at market or concessional rates) or through other concessional finance instruments.

4. **Effective: The types of activities funded must deliver real emissions reductions and contribute demonstrably to adaptation and remediation.** Climate finance should fund proven strategies, not false solutions that maintain dependence on the fossil fuel or agroindustrial economy, entail unacceptable risks or rights violations, or otherwise undermine achievement of a Paris-aligned 1.5°C pathway and a just transition to a clean energy future. States should ensure that scarce public resources for climate action support scientifically-aligned mitigation and adaptation measures based on evidence of near-term efficacy and the consent of those affected, rather than speculation about long-term impact and the influence of

proponents. This report provides a non-exhaustive exclusion list to highlight types of projects that should be categorically ineligible for climate finance because they do not accord with these principles.

5. **Rights-based: Project planning, implementation, and evaluation must respect, protect, and promote human rights throughout the project lifecycle.** Climate finance projects must be identified, implemented, and monitored using a rights-based approach that prioritizes transparency, participation, and accountability of duty-bearers. Such an approach leads to more effective climate action by requiring: the elaboration of human rights and environmental and social impact assessments before project approval, the development and deployment of rights-compatible social and environmental safeguards, oversight of financial intermediaries, and adherence to the procedural rights of access to information, participation, and remedy.

In concentrating on the final element above — measures necessary to safeguard rights during implementation of climate finance — this report does not intend to elevate that pillar above the others. Rather, this focus seeks to build upon decades of experience with development finance institutions and the approaches of pioneering climate finance mechanisms to draw lessons that can serve as an entry point into a broader discussion about the fundamental contours of climate finance: what is funded, where, how much, and on what terms.

For the five elements listed above to contribute to rights-based climate finance, they must be deployed conjointly, in a mutually reinforcing way. If climate finance flows contrary to *any one* of these elements, it undermines the obligation of the parties to the Paris Agreement to respect, protect, and promote human rights in and through their climate action.

States' duties under international environmental and human rights law include not only refraining from causing transboundary environmental harm and protecting human rights from foreseeable harm caused by third parties, *but also* creating an enabling environment for the progressive realization of human rights through international cooperation and assistance. This report provides guidance and a series of questions to help States ensure that their climate finance upholds these binding international obligations.

The immense public funds committed to support the economic recovery from the COVID-19 pandemic present an unprecedented opportunity to invest in a just recovery that is Paris-aligned, environmentally sound, and human rights-compatible. Climate finance decisions made today determine social resilience tomorrow, and influence the realization of human rights now and into the future. Channeling climate finance consistent with the five central pillars identified in this report has the power to transform global climate action and ensure that communities around the globe and the generations to come enjoy their right to a safe climate.

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PART 1

Introduction

The climate crisis is intensifying, and as it does, so do its impacts on human rights. Global warming is unleashing a range of environmental disasters, including more frequent and severe wildfires, hurricanes, typhoons, droughts, flooding, and heatwaves, which threaten a range of rights, including the rights to food, clean water, health, housing, culture, equality, self-determination, development, and even the right to life.¹ According to the United Nations (UN) High Commissioner for Human Rights, the climate crisis is the greatest-ever threat to human rights.² The Intergovernmental Panel on Climate Change's (IPCC) 2018 *Special Report on the Impacts of Global Warming of 1.5°C* found that each degree of additional warming increases the risks to human lives.³

Addressing the climate crisis requires not only urgent, ambitious action, but also billions to trillions of dollars to support dramatic emissions reductions, adaptation to a rapidly changing world, and measures to address mounting loss and damage due to climate change. This financial burden cannot and should not be borne equally by all countries, given the disconnect between historical responsibility for the causes of climate change and present vulnerability to its consequences. State parties to the UNFCCC have agreed that developed countries most responsible for the climate crisis have an obligation to financially support those developing countries that are the least responsible for it yet most adversely affected by it, to undertake mitigation and adaptation efforts and to address ongoing loss and damage due to climate change. This financial support is known colloquially as climate finance.

Climate finance is essential to both halting global temperature rise and adapting to the changing climate. It also helps to pay for loss and damage caused by climate impacts. If ill-designed, these investments can entrench reliance on fossil fuels and industrial agriculture, locking in polluting infrastructure, exacerbating vulnerabilities, and leading to stranded assets. Alternatively, they can pave the way to a fossil-free, clean energy future grounded in sustainable practices. In the wake of the COVID-19 pandemic, countries are committing huge sums of public funds to support economic recovery. This provides an unprecedented opportunity to design and invest in a just recovery that is Paris-aligned, environmentally sound, and human rights-compatible.

This report discusses elements essential to the rights-compatibility of climate finance, from the volume and distribution of the funds deployed, the terms of the financing, and the types of activities supported, to project planning, implementation, and evaluation. Climate finance is critical to achieving the principal goal of the UNFCCC and the Paris Agreement: avoiding dangerous anthropogenic interference with the global climate system, and in so doing, protecting and promoting human rights. To deliver on this aim, however, climate finance needs to be:

- *ambitious* in volume, to address the scale and scope of the crisis;
- *equitable* in distribution, to prioritize those communities most vulnerable to the adverse impacts of global warming with the fewest resources to cope;
- *fair* for recipient countries, to avoid exacerbating structural inequalities or generating new debt, and to contribute to their progressive realization of human rights;
- *effective*, to advance adaptation and mitigation measures that are demonstrated solutions (such as replacement of fossil fuels with renewables), not technological interventions that are unproven at scale and risky for rights and the environment; and
- *rights-based*, to respect, protect, and promote human rights in the design, implementation, and evaluation of financed climate action.

The projects supported by adequately resourced, scientifically aligned, and equitably distributed climate finance must be identified and implemented through a rights-based approach. Such an approach leads to more effective climate action, as it incorporates the voices and knowledge of Indigenous Peoples, women, youth, and local communities on the frontlines of the climate crisis; ensures their full and effective participation in the design and implementation of solutions; and considers how best to avoid negative environmental and social impacts.⁴

The report begins with a brief overview of existing international climate finance commitments, covering the gaps between pledged amounts, mobilized resources, and estimated

PILLARS OF CLIMATE ACTION:

Mitigation, Adaptation, Loss & Damage

Mitigation: The IPCC has described mitigation as “a human intervention to reduce the sources or enhance the sinks of greenhouse gases.”ⁱ Mitigation projects are activities that reduce or prevent the emission of the greenhouse gases that cause climate change.ⁱⁱ Such projects include support for renewable energy generation and distribution, energy efficiency projects, and the development of sustainable transport systems. Mitigation measures also include projects related to halting deforestation and forest degradation; reforestation, or afforestation; and redressing soil depletion, as forests and soil are natural carbon sinks.ⁱⁱⁱ Mitigation projects can directly reduce emissions (e.g., by changing urban transport systems) and/or indirectly reduce emissions by providing support for projects that promote clean energy as countries strive to meet energy access needs (e.g., solar energy microgrids).

Adaptation: The IPCC describes adaptation as “the process of adjustment to actual or expected climate and its effects.”^{iv} Adaptation projects help communities respond to the changing climate, including by strengthening community resilience and reducing vulnerabilities to climate impacts.^v Measures include, for example, changing agricultural practices to adapt to changing weather patterns, building sea walls or flood defenses, adapting buildings to be more resilient to extreme weather events, harvesting water, or enhancing climate information systems.^{vi} Adaptation projects are critical to protecting countries and communities most vulnerable to climate impacts.

Loss and Damage: Loss and damage refers to the harms and costs incurred due to a changing climate, beyond those impacts to which adaptation is possible. Loss of species or human lives and destruction of cultural heritage and sacred sites are among the irreversible, adverse consequences of the climate crisis, which can trigger both economic and non-economic injuries.^{vii} The Paris Agreement identifies examples of collaborative measures to stem loss and damage from slow onset events as well as from sudden events causing permanent change. These include early warning systems, emergency preparedness, and support for enhanced resilience of communities, livelihoods, and ecosystems.^{viii} While there is some overlap between adaptation and loss and damage activities, they are unique, and require distinct funding.^{ix} The Paris Agreement calls on parties to enhance support for and action on loss and damage through the Warsaw International Mechanism (WIM),^x which was established in 2013 to address loss and damage. However, resources for loss and damage have been slow to materialize, in part due to the absence of a dedicated financing mechanism, which the WIM is not.^{xi}

This report focuses predominantly on mitigation and adaptation finance, largely because they have attracted the bulk of funding to date and therefore offer more experience from which to analyze impacts on human rights. However, that focus is not intended to detract from the urgent need for loss and damage financing, which is critical to ensuring climate justice and supporting those populations already facing some of the most devastating climate impacts.^{xii}

needs globally, as well as the existing channels for distribution. From a discussion of *how much* and *where* climate financing goes, Part 3 turns to the importance of *what* types of activities are supported and through *which* types of financial instruments. This part also discusses the kinds of projects most essential to preventing future warming and protecting rights against the current and anticipated impacts of climate change. Critically, it identifies some of the types of projects that should be categorically excluded from climate finance because they prolong the fossil fuel era, entail unacceptable risks, or otherwise undermine achievement of a 1.5°C pathway and a just transition to a clean energy future. Part 3 then

explores the various considerations necessary to ensure a rights-based approach to the implementation of climate finance activities, including project scoping assessments, the application of safeguards during operations, and guidance for ensuring participation, access to information, and remedy. The report focuses primarily on this last aspect of rights-compatibility, not because it is more important than others, but because there is a wealth of experience and existing resources on which to draw regarding the safeguarding of rights during project implementation. The report concludes with a list of questions to ask before providing climate finance.

PART 2

Background on Climate Finance

While there is no internationally agreed definition of climate finance, the term encompasses money provided to projects and programmes aimed at mitigating the causes of climate change, adapting to its consequences, and/or remediating its ongoing harms.⁵ Financing activities that contribute to global warming (such as by driving up fossil fuel emissions or destroying carbon sinks) or erode the resilience of communities or ecosystems to the effects of a changing climate, are antithetical to this goal and thus cannot be considered climate finance. Climate finance should not promote or perpetuate the fossil fuel economy — the principal driver of the climate crisis.⁶ As that crisis accelerates, so too does the need for climate finance in all three areas: mitigation, adaptation, and loss and damage.

International Commitments to Climate Finance

Since the adoption of the UNFCCC in 1992, cooperation has been a core part of the international climate regime, requiring financial support from developed countries most responsible for the climate crisis to developing countries least responsible and most adversely affected.⁷ This requirement recognizes that developed countries have contributed the most to climate change, through their disproportionate share of historical emissions.⁸ In contrast, those facing the most severe impacts of climate change — such as people living on low-lying islands — are least responsible for the crisis that threatens them. For this reason, equity and climate justice are at the heart of climate finance.

Equity, an established principle of international environmental law, is a central tenet of the climate regime. The UNFCCC states that “Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities.”⁹ In recognizing that countries are neither equally obligated nor equally positioned to address the climate crisis, this principle implies that countries can and should take different steps to address global warming, with developed countries bearing a greater share of the burden.¹⁰ Through their adoption of reports by IPCC, the State parties to the UNFCCC have endorsed the notion that developed countries’ financial support to developing countries, if provided in

an equitable manner, will not only bolster the global response to climate change, but also support sustainable development and the eradication of poverty.¹¹

In the years since the adoption of the UNFCCC, parties have repeatedly affirmed their commitment to climate finance and continued to shape the institutional architecture for its provision. In the 2009 Copenhagen Accord, developed countries recognized the critical need for both short- and long-term finance.¹² They pledged to deliver short-term climate finance on the order of \$30 billion* for the period between 2010 and 2012, and reaffirmed this commitment in 2010 and 2011.¹³ Additionally, developed countries recognized the critical need for long-term climate finance and agreed to jointly mobilize \$100 billion *per year* in climate finance by 2020.¹⁴ In 2015, countries agreed to review this goal and set a new, higher goal for collective climate finance prior to 2025.¹⁵

The Paris Agreement explicitly reaffirms the obligations of developed countries under the UNFCCC to provide international support. Article 9 provides that “Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.”¹⁶ Article 9 further states that the aim should be for a balance between adaptation and mitigation finance, and that the needs and priorities of developing country parties should be taken into account in designing and delivering that

COP15, COPENHAGEN © UNCLIMATECHANGE VIA FLICKR



*All figures are in US dollars unless otherwise noted.

Climate Finance Delivery Channels

Climate finance is being delivered through a variety of channels, some tied to and others separate from the UNFCCC. Article 11 of the UNFCCC defined the Convention's initial financial mechanism, but the UNFCCC has also recognized that climate finance can flow through bilateral (i.e., State development agencies) and multilateral (i.e., World Bank and regional development banks) channels as well.^{xiii} Since then, the UNFCCC has developed a number of funds that serve the Convention, the Paris Agreement, and the Kyoto Protocol, and to which the parties give guidance through decisions of the Conference of the Parties (COP). The UNFCCC recognized the Global Environment Facility (GEF) as a multilateral fund that can serve the Convention, and it has done so since the UNFCCC entered into force in 1994.^{xiv} The GEF also manages two special, largely adaptation-focused funds created by the Convention.^{xv} Then in 2001, the parties established the Adaptation Fund under the Kyoto Protocol, specifically to fund adaptation projects (as the name indicates), and they have subsequently designated the Adaptation Fund to serve the Paris Agreement.^{xvi} Finally, in 2010, the parties created the Green Climate Fund (GCF) as an operating entity of the UNFCCC's financial mechanism.^{xvii}

finance.¹⁷ The Paris Agreement also recognizes, for the first time, the importance of “averting, minimizing and addressing loss and damage associated with the adverse effects of climate change,” as distinct from mitigation and adaptation obligations. Article 8 directs parties to “enhance understanding, action and support [with respect to loss and damage], including through the Warsaw International Mechanism.”¹⁸

These repeated commitments, however, have not been met at the scale promised and needed. The Organisation for Economic Cooperation and Development's (OECD) third and most recent report on climate finance found that in 2018, developed countries mobilized or provided \$78.9 billion, of which \$62.2 billion was public finance through both bilateral and multilateral channels.¹⁹ Oxfam finds the number to be significantly lower, however, especially after taking into account how climate finance is being provided, for example in the form of loans rather than grants.²⁰ However the numbers are crunched, the conclusion is clear: provision of climate finance by developed countries has fallen far short of what's been promised, let alone what is needed to adequately address the climate crisis.²¹

International Human Rights Obligations Related to Climate Finance

Climate finance has not only been discussed in the international climate regime; it has also been the subject of scrutiny in the UN human rights system. Human rights instruments obligate States to cooperate internationally toward the progressive realization of human rights globally, including through the mobilization of financial assistance. UN human rights authorities have repeatedly stressed the application of these obligations in the context of the climate crisis, with implications for the provision and use of climate finance. States not only have duties under international environmental and human rights law to refrain from causing transboundary

environmental harm and to protect human rights from foreseeable harm caused by third parties (private action), but also obligations to create an enabling environment for the realization of human rights through international cooperation and assistance.²²

As evidenced by more than a decade of resolutions from the Human Rights Council, human rights and climate change are inextricably linked.²³ Climate finance has figured prominently in discussions of climate change by human rights actors. For example, in his 2019 report, the UN Special Rapporteur on Human Rights and Environment detailed countries' obligations to protect human rights from environmental harm, including from climate change.²⁴ These procedural and substantive obligations relate to mitigation, adaptation, finance, and loss and damage, as well as the duty to regulate businesses and other actors so that they do not contribute to human rights violations.²⁵ In addition to explicitly urging States to ramp up climate finance, the Special Rapporteur also calls for “climate funds to strengthen and harmonize social, environmental and human rights safeguards when financing projects” and to “require project specific gender action plans and consistency with the Sustainable Development Goals” (SDGs).²⁶

Human rights treaty bodies have also increasingly recognized that, in the context of climate change, States' human rights obligations require them not only to provide climate finance, but also to ensure that the projects and programmes funded respect human rights. These bodies monitor the implementation of their corresponding treaties by assessing States' compliance with their human rights obligations and by elaborating on the interpretation of these instruments. Through General Comments and Recommendations, the State Reporting Procedure, and a joint statement in 2019, these bodies have noted that States need to take action on climate change to protect and respect human rights, including through cooperative action and contributions to climate finance.²⁷ In their joint statement, five treaty bodies emphasized that as part of their international cooperation obligations, “high-income States should also support adaptation and mitigation efforts in developing countries ... by contributing to financing climate

mitigation and adaptation” and must work jointly to establish responses to address loss and damage.²⁸ The Committee on the Elimination of Discrimination against Women (CEDAW Committee) also noted the importance of “adequate and effective” financial resources to address climate change prevention, mitigation, and adaptation, including through provisions in “national budgets *and by means of international cooperation*.”²⁹ Through State Reporting Procedures, at least one human rights treaty body has specified that climate finance contributions should be provided in addition to official development assistance and should not negatively impact development assistance unrelated to climate change.³⁰ The treaty bodies have also noted the need to ensure that developing countries, and specifically the populations most vulnerable to climate change, have access to climate finance.³¹

Further, States must ensure that their conduct outside of climate finance, including through other policies and funding programmes, does not undermine climate finance objectives or the efficacy of climate action in other countries. As signatories to international environmental and human rights agreements that require State cooperation in the provision of equitable climate financing (such as the UNFCCC, the Paris Agreement, and human rights agreements), States must refrain from acts that would defeat the object and purpose of those treaties.³² In addition to requiring developed country parties to provide finance to developing country parties to assist with adaptation and mitigation action, the Paris Agreement obligates parties to make “finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development.”³³ To comply with these provisions of the Paris Agreement and uphold their international cooperation obligations under human rights law, States must ensure coherence across their policies so that their actions or omissions in one area do not contradict climate mitigation and adaptation efforts pursued through climate finance.³⁴ For example, States’ trade and investment policies should align with

human rights and climate obligations, not undercut them (i.e., through the continued support of fossil fuel production or deforestation). This includes ensuring that trade and investment agreements do not hinder States that are party to them from enacting and implementing progressive regulations to protect the environment and address climate change.³⁵

Similarly, States should not undermine financing for climate action by simultaneously supporting investments in fossil fuel production. State financial institutions, including export credit agencies (ECAs), have consistently devoted significant investments (billions of dollars) to fossil fuel infrastructure — a practice that has continued even after States signed the Paris Agreement.³⁶ Further, most ECAs are designed to provide investment opportunities and economic benefits to their own domestic private sector, through government-backed financing.³⁷ Given this focus on benefits for home country corporations, ECA financing should arguably not be counted as climate finance for the purposes of meeting obligations under Article 9 of the Paris Agreement, which emphasizes that such finance should be additional to previous efforts and aimed at assisting developing countries.³⁸

Complying with existing international obligations is the starting point for ensuring rights-compatible climate finance. Protecting human rights from environmental harm, especially climate change, requires international cooperation and assistance to ensure countries hardest hit and least equipped to address the climate crisis can take steps to ensure the realization of human rights, including through mitigating and adapting to climate change. Mobilizing sufficient resources is only the first step. Countries must also refrain from conduct that undermines the goals of climate finance, including by exacerbating climate change. And they must ensure that financing is provided in a way that not only does no harm, but also advances the protection, realization, and fulfillment of human rights. The following section details key elements that should be met to adhere to these legal obligations.

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PART 3

Key Elements for Ensuring Rights-Compatible Climate Finance

Climate change directly impacts the realization of human rights, but so too can climate action.³⁹ If not properly identified, designed, or implemented, measures to mitigate climate change or adapt to its impacts can infringe upon human rights. All parties to the UNFCCC have legally binding obligations to respect, protect, and fulfil human rights, to which they must adhere to and through their climate action, whether that action takes the form of a dedicated “climate project” or climate finance that supports a broader suite of climate-related measures.⁴⁰ Policies that prevent climate finance from causing harm to people and communities, and that promote its positive impacts, are therefore critical both to safeguard the rights of affected populations and to uphold the duties of States. Robustly enforcing such policies is necessary to ensure that climate action does not result in or excuse other environmental harms or human rights violations. Before turning in more detail to the policies necessary to safeguard rights while implementing climate action, the following sections briefly highlight four other foundational considerations that influence the rights-compatibility of climate finance. Each of these four topics, from the volume of financing to its distribution, terms, and scientific alignment, merit further research and discussion. This overview aims to provide a basis for broader and more rigorous examination of the contours and content of climate financing in the future.

Up to the Challenge: Ambitious Climate Finance

Providing adequate, predictable climate finance is both a moral and a legal obligation of developed countries. As noted above, this finance should be new and additional to existing official development assistance.⁴¹ The obligation to provide climate finance should not be fulfilled by diverting existing funding commitments or by providing financing that is designed primarily to benefit the financing country’s own economy, rather than address the urgent needs of the recipient country.⁴² Reporting on the provision of climate finance should be transparent, accurate, and sufficiently specific to enable climate governance bodies and interested members of the public to track how much money is allocated for critical climate action, where it is going, on what terms, and for what purposes.

The Paris Agreement recognizes the importance of reporting, obliging developed countries to provide both “indicative quantitative and qualitative information” on the finance they provide. Adherence to these requirements could help enhance predictability.⁴³ Additionally, it obliges developed countries to provide “transparent and consistent information on support for developing country Parties provided and mobilized through public interventions.”⁴⁴ Since the Agreement, parties have elaborated an indicative list of information to include in this predictive reporting to clarify how much finance will be provided, through what channels and financial instruments, and for what purpose, among other things.⁴⁵ Parties have also elaborated rules on the transparency framework, which directs countries to provide information on how much finance they have provided, the type of financial instruments used, and the sector the finance is supporting, among others.⁴⁶ These guidelines provide some clarity, but additional frameworks are needed, including on common accounting rules, to ensure comprehensive, consistent, and comparable reporting.⁴⁷ Without increased disclosure of climate finance flows from developed countries or greater consensus on what should count toward those totals, assessing the adequacy, impact, and ultimate rights-compatibility of those flows will remain nearly impossible. And without such an assessment, it is difficult to diagnose what changes are needed and where future finance should focus to best serve human rights.

Ambitious climate action, which is essential to protect human rights and the environment from the mounting climate crisis, requires ambitious climate finance. Vast amounts of resources are needed to pay for adaptation and mitigation, as well as to remediate growing loss and damage due to climate change. Among the first questions to ask when assessing the rights-compatibility of climate finance, therefore, is whether the resources deployed are commensurate with the challenge.

The collective goal of \$100 billion of climate finance per year by 2020⁴⁸ was set by the UNFCCC parties in 2009 based on political negotiations, rather than a prior assessment of needs.⁴⁹ It remains an elusive target. Several factors complicate efforts to assess whether the goal has been met, let alone whether meeting it would suffice to help developing countries confront and cope with the climate crisis. Accelerating climate impacts, evolving costs, and discrepancies in reporting make it difficult to put a precise number on the current financing gap. The UNFCCC’s Standing Committee on Finance is in the

process of preparing a report on the needs of developing countries related to implementing the Convention and the Paris Agreement,⁵⁰ but several studies already indicate that current climate finance must be scaled up significantly, particularly for adaptation.⁵¹ Estimates of the amount of climate finance needed put the total in the trillions of dollars. For example, the IPCC estimates that \$2.4 trillion is needed just for the energy system globally between 2016 and 2035.⁵² Additionally, in its most recent *Adaptation Gap Report*, the United Nations Environment Programme (UNEP) has estimated that adaptation costs alone are approximately \$70 billion per year and will increase to between \$140 and \$300 billion annually by 2030 and between \$280 and \$500 billion in 2050.⁵³ In contrast, by some accounts, total annual bilateral and multilateral climate financing for adaptation has averaged less than \$20 billion per year recently — drastically below what's needed.⁵⁴ Estimated needs for addressing loss and damage are even greater; some projections indicate that by 2030, developing countries alone will need at least \$300 billion per year to address loss and damage and that this need will increase to \$400–430 billion per year beyond 2030.⁵⁵

The collective global target is undergirded by individual State responsibilities. While the magnitude of resources required to confront and cope with the climate crisis necessitates a role for

private finance, that does not diminish the responsibilities of States to deploy public monies and regulate private action to accelerate a just transition. Individual countries must do their fair share not only to reduce domestic emissions, but also, in the case of developed countries, to provide finance to developing countries to support their climate action.⁵⁶ Fair shares calculations for developed countries often take a politically negotiated figure (such as the \$100 billion)⁵⁷ or a scientifically agreed upon emissions reduction goal as the basis for calculating an emitter's portion of responsibility toward achievement given its capacity and historic responsibility. And by many estimates, too many developed countries have failed to put their money where their mouths are and pull their respective weight in financing climate solutions and climate justice.

Individual countries may be reporting increased levels of climate assistance, but those figures are often over-inclusive, labeling as climate-relevant financing that may not have any clear relationship to greenhouse gas emissions or their impacts, or worse still, may include support for fossil fuels, under euphemistic banners such as “clean coal.”⁵⁸ In a recent report, CARE Denmark and CARE Netherlands found that the amount of adaptation finance is significantly exaggerated, often due to project proponents either inaccurately claiming they are focused on adaptation or overstating a project's adaptation relevance.⁵⁹ Further, in continuing to report funds that are part of official development assistance as climate finance, countries threaten to displace or divert assistance needed in other areas, in contradiction to the obligation that climate finance be both new and additional to existing finance flows.⁶⁰

Claiming offset projects as climate finance could arguably constitute yet another form of misreporting. Countries should not include projects in their climate finance total if the climate benefits accrue to the financing country as “offsets” for its own continued emissions or those of entities within its jurisdiction. Such offset projects undercut the ambition of developed countries' domestic mitigation measures by allowing them to pay for reductions abroad instead of maximizing reductions at home. Allowing climate finance to bankroll such projects would be at odds with the overall aim of mobilizing new and additional finances to address the climate crisis and ensuring that countries historically responsible for the crisis not only pay their fair share for global action, but also take their fair share of action to resolve and respond to the crisis. Should negotiations regarding the implementation of Article 6 of the Paris Agreement create a new international trading mechanism for emissions reductions under the international climate regime framework,⁶¹ it will be important to ensure that the financing directed towards such tradeable mitigation obligations does not detract from public climate finance flows from developed to developing countries.

No matter how the numbers are crunched, given the lack of a common definition and various forms of overcounting, it is clear that developed countries need to provide significantly more finance to even approach meeting the growing costs of addressing the climate crisis.⁶²

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Reaching Those in Need: Equitable Climate Finance

The proliferation of climate finance delivery vehicles has not necessarily resulted in more finance or greater access to it. Across climate finance vehicles, access to the funding available, especially at the local level, remains a critical challenge. This can be due to a multiplicity of factors, including systemic inequities, lack of capacity of local institutions to comply with myriad policies, lack of funding and investment in capacity-building, or lack of trust.⁶³ Two considerations are key to overcoming these hurdles. First, focusing more on country ownership: ensuring that projects are designed by countries, in line with national priorities, and in ways that involve people from the local level, sub-national, and national government in project development.⁶⁴ Second, tailoring financing instruments to communities in need: ensuring that financing respects the priorities of those who need it most, including by providing marginalized and vulnerable groups direct access to climate finance, as pioneered by the Adaptation Fund.⁶⁵

To better reach local communities, States should consider which multilateral and bilateral vehicles are best suited to deliver climate finance to a broader range of actors and at a more local level. Some climate finance institutions or bilateral climate finance programmes are more agile than larger institutions like multilateral development banks.⁶⁶ Multilateral development banks are often tied into funding patterns that prioritize larger projects and, therefore, also large institutions, contractors based in the Global North, or private financial intermediaries, which means it is more difficult for their finance to directly reach local actors. Currently, it has been estimated that only 10% of climate finance is prioritized for the

local level.⁶⁷ While there is room for improvement, both the Green Climate Fund (GCF) and the Adaptation Fund, which are dedicated to climate finance, have mechanisms in place, including direct access, that can enable more flexible approaches that are more responsive to communities.⁶⁸ Similarly, small grant funding, such as through the Adaptation Fund's Innovation Grants, the Global Environmental Facility's (GEF) Small Grants Programme at the multilateral level, or the German government's International Climate Initiative (IKI) Small Grants Programme at the bilateral level, can prove a more appropriate vehicle for supporting projects needed at the local level.⁶⁹ These flexible approaches can help improve access for local communities by prioritizing locally relevant projects, decentralizing delivery, and demonstrating that a multitude of forms of climate action and small results can have significant impact.⁷⁰

No New Debt: Fair Climate Finance

A central concern of climate finance should be ensuring that it does not compound economic problems or exacerbate structural inequalities and vulnerabilities. Countries most in need of climate finance are often those countries that are least developed, hardest hit by the climate crisis, and most vulnerable to other crises and shocks as well. The COVID-19 pandemic has only exacerbated these hardships and contributed to worsening economic conditions around the world. Therefore, it is essential that climate finance does not worsen the economic woes or increase the debt burdens of those it is designed to benefit.⁷¹

Climate finance should help repay the climate debt owed by the Global North, not create new financial debt in the Global South. Many climate finance recipient countries have substantial sovereign debt burdens, which can hinder their ability to

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promote the realization of human rights.⁷² Adding to that debt through climate finance further jeopardizes rights. Moreover, simply transposing development assistance criteria onto climate finance decisions risks exposing some countries most vulnerable to the impacts of climate change and in most urgent need of assistance to increased debt burdens. For example, some Small Island Developing States (SIDS), which face extreme climate risk, are considered middle income countries by development finance institutions, and therefore would not qualify for grants.⁷³ But it is industrialized countries that owe the SIDS and other countries least responsible for climate change a tremendous climate debt — not the other way around. Thus, principles of equity and common but differentiated responsibilities dictate that public climate finance, particularly for adaptation, be provided as grants rather than as loans or other concessional finance.⁷⁴ Public finance can create conditions to encourage the mobilization of private finance in support of rights-compatible climate action. Public policies designed to further that aim should steer private finance away from carbon-intensive activities and toward rights-compatible alternatives, *without* creating or deepening debt for recipient countries.

Debt relief is a critical prerequisite for ambitious and effective climate action, as debt burdens can hamper the ability of countries to finance economic recovery and climate mitigation and adaptation actions while also promoting the realization of human rights.⁷⁵ In the wake of the COVID-19 pandemic and its devastating economic impacts, ideas have emerged to tackle the mounting debt and climate crises through debt-for-climate or debt-for-green recovery swaps.⁷⁶ These swaps and other debt relief initiatives have the potential to enable more effective climate finance by positioning recipient countries to absorb and use climate finance to implement effective climate action.⁷⁷ It would be particularly ironic, however, to consider providing debt relief through debt-for-climate swaps while also increasing countries' debt by providing climate finance in the form of loans, especially for adaptation.

While innovative ideas for tackling the dual debt and climate crises merit consideration, they also warrant caution. Neither debt relief nor debt-for-climate swaps should supplant new financing for mitigation, adaptation, and loss and damage. Climate finance should be additional to other forms of assistance, not a substitute or a precondition for that assistance. Nor should such initiatives provide new avenues for policy prescriptions that entrench exploitative relationships between the Global North and South. Conditioning debt relief on developing countries taking action to address the climate crisis — a crisis for which *developed* countries are responsible — risks replicating the same double standards that have fueled extreme global inequality. Further, any such debt-for-climate or debt-for-green recovery swaps must not induce climate actions that undermine the realization of human rights. For example, if debt relief is offered for forest conservation, that conservation programme must only proceed with the prior consent of affected forest-dependent populations and in a manner that is fully consistent with human rights.⁷⁸

Investing in Proven Mitigation and Adaptation Measures: Effective Climate Finance

Protecting and promoting human rights in the context of the climate crisis requires not only adequate ambition, but science-aligned action that supports proven strategies for curbing global warming and adapting to the changing climate.

Commitment to rights-compatible climate finance requires clarity around what projects and programmes will not be considered because they undermine or dilute other mitigation measures or pose significant social and environmental risks. An exclusion list can offer such clarity. As a start, an exclusion list should encompass activities that would contravene the purpose of the climate finance mechanism (such as financing that would perpetuate dependence on the fossil fuel economy) and activities that exacerbate the climate emergency.⁷⁹ False solutions, such as experimental geoengineering technologies that are unproven or unviable at scale and that divert resources from proven approaches to reducing emissions and increasing natural carbon sinks, should be categorically excluded from climate finance mechanisms.

Climate finance should further exclude projects that pose foreseeable risks of violating human rights, Indigenous Peoples' rights, land tenure rights, or women's rights, or that could lead to modern slavery, forced or child labour, disrespect for labour rights, resettlement of people (especially without agreed resettlement and compensation plans), or forced evictions. Additionally, it should exclude projects that are in or pose significant risks to critical habitats and other habitats that have been deemed "no-go zones." For example, past experience indicates that certain types of investments, such as large-scale hydroelectric projects or agro-industrial plantations, pose recurrent and unacceptable risks to local affected communities, ecosystems, and biodiversity, and have deleterious effects on the climate. Given that track record, such projects fall outside the scope of rights-compatible climate finance.

Below are some examples of categories of projects or activities that should be ineligible for climate finance. The following is *not* an exhaustive exclusion list, but aims to indicate the types of considerations that should guide climate finance institutions in establishing clear parameters for what activities are consistent with the institution's climate change objectives and human rights obligations.

Large-scale hydropower

Dams have a long history of not only causing human rights harms, but also contributing to climate change as a result of land clearance and decaying vegetation under reservoirs.⁸⁰ Large-scale dams have repeatedly been associated with forced displacement, disregard for the rights of Indigenous Peoples,



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health problems, destruction of biodiversity, and negative impacts on food security, among other adverse impacts.⁸¹ These harms often occur early in the development and construction of a dam, but can also occur during the operation of a dam.⁸²

Monocrop plantations

Monocrop or monoculture is when a single crop is cultivated over a whole farm or area, and can be associated with the planting of forests or agricultural crops. Monocrop plantations can lead to the destruction of native forests or agricultural lands; cause soil depletion, which diminishes crop yields, thus impacting food sovereignty; lead to forced evictions of local communities; and exacerbate discrimination against Indigenous Peoples and women, who comprise the majority of the world's smallholder and subsistence farmers;⁸³ among other harms.⁸⁴ Additionally, monoculture tree plantations have been touted as a climate mitigation strategy, yet have poor carbon sequestration rates and high risk of reversals, which undermines the goal of mitigating climate change.⁸⁵

Fossil fuels and fossil fuel-related infrastructure

The burning of fossil fuels is the primary driver of climate change.⁸⁶ As climate finance is designed to mitigate and adapt to climate change, and parties to the Paris Agreement committed to make “finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development,”⁸⁷ funding any sort of fossil fuels or fossil fuel-

related infrastructure — including projects that purport to deliver “cleaner” fossil fuels, or erroneously promote natural gas as a “bridge fuel” — would undermine its fundamental purpose and delay the phase-out of fossil fuels.⁸⁸ Not only does the burning of fossil fuels threaten human rights, but the full lifecycle of fossil fuel production does too, from extraction to transport, refining, disposal, and decommissioning.⁸⁹

Genetically modified organisms (GMOs)

Genetic modification has been used to create plants that are resistant to disease and drought, among other things, but it has also been associated with risks to human health, as well as biodiversity loss and potential impacts to food production.⁹⁰ Additionally, the lack of information and the challenges of understanding information about GMOs can undermine the right of people to make informed choices about their food and the right to democratic participation, as many, including youth and future generations, often cannot meaningfully engage in decisions about GMOs that may impact their environment and lives.⁹¹ Lastly, GMOs, and in particular the patenting of GM crops, can negatively affect the rights of Indigenous Peoples and local farmers — the very communities whose rights and food sovereignty climate finance should uphold.⁹²

Biomass and biofuels/agrofuels

Biofuels or agrofuels are fuels that are produced from biomass (trees, plants, vegetable waste, or other organic matter) and used as an energy source, such as for cooking. Biofuels have been touted as an alternative to fossil fuels. The large-scale production of biofuels and biomass, however, requires significant land, which brings with it the risk that the land needed will be converted from other uses (such as growing food) or seized from Indigenous Peoples or local communities who own and/or occupy and use the land. This conversion of land can lead to higher greenhouse gas emissions, as well as violations of land rights of Indigenous Peoples and local communities and impacts on the rights to water and food and food sovereignty.⁹³ The burning of biomass also can have severe health impacts, especially for women and children, as it is often used for indoor cooking and the black carbon air pollution it causes leads to numerous health impacts.⁹⁴ To halt climate change, the world needs to stop generating energy by *burning* things, period — be it fossil fuel or biofuel — and shift to renewable, non-combustion energy sources.

Geoengineering technologies, including, but not limited to: direct air capture (DAC), carbon capture and storage (CCS), carbon capture utilization and storage (CCUS), bioenergy with carbon capture and storage (BECCS), and solar radiation management (SRM) technologies

Geoengineering technologies, such as those listed above, are unproven or unviable at scale, pose significant risks of harm to human rights and the environment, and/or prolong reliance on fossil fuels.⁹⁵ The technologies themselves can threaten a range of human rights, such as the right to a healthy environment, rights to water and food, land rights, and the rights of

Indigenous Peoples. Carbon capture and storage, for example, poses considerable environmental and safety risks due to the vast new infrastructure buildout it would require and dangers associated with compressing, transporting, injecting, and storing carbon dioxide underground.⁹⁶ Other technologies, like DAC and BECCS, demand such massive land, water, and energy inputs that their deployment at scale could increase food and water scarcity and/or result in significant displacement.⁹⁷ Additionally, because reliance on these technologies can divert resources and efforts away from proven mitigation and adaptation measures or otherwise prolong reliance on underlying sources of emissions to which the technologies are applied (such as fossil fuel power plants or biomass combustion), rather than replace them, they undermine the transition to a clean energy future. Directing scarce public climate finance resources to proven strategies, rather than these technologies, minimizes the risk of overshooting the 1.5°C goal beyond which human rights impacts are significantly worse.

For People and the Planet: Rights-Based Climate Finance

Climate finance should promote projects and programmes that not only do no harm, but that benefit people and their environment. Over the last thirty years in both the development finance and climate finance spaces, environmental and social safeguards systems have evolved as a key tool to ensure that actions intended to benefit local communities do not harm them. Such systems include policies, practices, and mechanisms aimed to avoid, mitigate, and, more recently, remediate, the adverse environmental and social impacts of financed activities. These policies and systems developed in response to harms caused by large-scale development projects,

including large hydropower dams that could erroneously be considered climate finance projects today. These safeguards systems have been updated and adapted as lessons have been learned over the course of those thirty years. That evolution is reflected in the inclusion of significantly more social issues in current safeguard policies, such as labour standards, human rights, and gender sensitivity, among others. Importantly, safeguards systems now typically include provisions for promoting stakeholder engagement and securing Indigenous Peoples' free, prior, and informed consent (FPIC), as well as accountability mechanisms through which communities can seek redress and remedy.

The preeminent multilateral climate finance institutions under the UNFCCC financial mechanism, including the GCF, the Adaptation Fund, and the GEF, were established against the backdrop of years of experience with development finance institutions. That experience informed the design of the climate finance mechanisms and enabled them, from the start in the case of the GCF, to adopt and improve on the safeguards systems that took decades to build at development institutions. For example, when the UNFCCC parties established the GCF, they specified that it should seek to promote environmental and social co-benefits, have environmental and social safeguards, establish an independent accountability mechanism, and take a gender-sensitive approach.⁹⁸ Both the Adaptation Fund and the GEF chose to develop environmental and social safeguards to foster sustainable and beneficial projects.⁹⁹

These examples provide an evolving roster of good social and environmental policies. In principle, these policies help ensure that climate finance not only avoids infringing on human rights, but also actively promotes rights. Policies on paper only go so far, however. It is putting them into practice that

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counts. Implementing, monitoring, and enforcing safeguard policies, as well as ensuring the possibility for corrective action and accountability where necessary, represent critical challenges for any climate finance institution — challenges that the countries providing climate finance have an imperative to tackle. The following sections define critical elements of a safeguards system that can help ensure that climate finance — whether for mitigation, adaptation, or loss and damage activities — does not harm people and the environment, and instead advances rights-compatible climate action.

Prior Impact Assessments

To identify, prevent, and mitigate risks of adverse effects on people and the environment, and to enhance potential positive effects, no climate action should be financed without a prior environmental and social impact assessment (ESIA) as well as a human rights impact assessment (HRIA). While the intensity of such assessments may vary with the nature and scale of a project, all climate financing decisions should be informed by prior evaluation of potential risks and impacts, and disclosure of that information to affected communities so that they may meaningfully participate in the decision of whether and how the proposed activity proceeds. An ESIA process should include: an initial screening to determine the scope of the assessment; scoping to determine what impacts should be assessed for the specific project; an assessment of the impacts and benefits, including an examination of alternatives and ways to eliminate harm or, if that is not possible, to mitigate it; and development of an ESIA that is publicly accessible, consulted upon, and revised as necessary.¹⁰⁰

An HRIA reveals potential impacts on human rights and can offer steps to avoid or, at the very least mitigate, the potential harms identified. HRIAs can also help ensure that those who are most in need are actually receiving the benefits of climate actions and provide steps to help promote enjoyment of human rights.¹⁰¹ Excellent guidance exists on how to conduct HRIAs, including what elements and indicators should be included.¹⁰²

Rights-Compatible Social and Environmental Safeguards

As noted at the outset of this section, robust social and environmental safeguards are a critical component of rights-compatible climate finance, and inform the conduct of ESIA and HRIA. Safeguard policies have developed in a variety of forms, typically tailored to the specific institution for which they are written and the types of projects that the institution funds. For example, some, like the GCF, have an overarching Environmental and Social Policy, as well as individual safeguards on different topics and specific policies on Indigenous Peoples, gender, and information disclosure.¹⁰³ Others, like the Adaptation Fund, have one policy that sets forth all of the principles to which their activities must adhere.¹⁰⁴ No matter

the type, to be human rights-compatible, the safeguards must be rooted in human rights laws and standards and cover core issues outlined in the following sections.

Perhaps most importantly, safeguard policies can and should evolve over time. As human rights norms and good practices evolve, so too should safeguard policies. Climate finance institutions should plan to regularly update their policies, for example, by reviewing them at least every five years. This can help to eliminate gaps that could lead to human rights abuses as norms or the nature of financing changes.

Social Safeguards

A Human Rights Policy

To start, a climate finance institution should explicitly state in its policies that projects or programmes financed will respect, protect, and promote human rights. Such an express commitment is important both for its signaling effect and for its acknowledgment that human rights obligations form the foundation of climate action. For example, the Adaptation Fund's safeguards state that all projects it supports shall respect international human rights,¹⁰⁵ and the GCF's policies state that "All activities supported by GCF will be designed and implemented in a manner that will promote, protect and fulfil universal respect for, and observance of, human rights for all recognized by the United Nations. GCF will require the application of robust environmental and social due diligence so that the supported activities do not cause, promote, contribute to, perpetuate, or exacerbate adverse human rights impacts."¹⁰⁶ To help ensure compliance and coherence with international law, the policy should expressly require all projects to adhere to international human rights standards and good practices — and should allow accountability mechanisms to review compliance therewith as a component of guaranteeing the right to remedy, discussed *infra*.

Equity & Non-Discrimination

Climate finance should promote equity and non-discrimination. This includes aspects related to how and to whom finance is provided, as well as consideration of disparate impacts. Equity requires financiers to consider and respect the priorities of local communities, as they are best placed to determine what climate action is most necessary and most likely to be effective. Principles of equity also should lead financiers to seek opportunities to provide direct access to climate finance for those who may be most exposed to the adverse impacts of climate change and historically marginalized from decision-making, including Indigenous Peoples, local communities, women, and youth.¹⁰⁷ The principle of non-discrimination should be fundamental to considerations for providing access to resources and benefits.¹⁰⁸ Further, climate finance institutions should ensure that the climate activities they finance do not have disparate, adverse impacts on marginalized groups and individuals.

Gender

For climate action to be rights-compatible, it must have gender-responsiveness as a fundamental principle, and steps must be taken to ensure that climate action does not undermine equality or disproportionately harm women.¹⁰⁹ All projects and programmes should also ensure respect for and promotion of women's rights and gender equality.¹¹⁰ As acknowledged by SDG 5, ending discrimination is critical to achieving sustainable development and helps drive economic growth.¹¹¹ Like climate change itself, climate finance projects can disproportionately impact women and girls.¹¹² At the same time, women and girls possess significant knowledge regarding measures to mitigate and adapt to climate change.¹¹³ As such, climate finance should be directed to local women's organizations, for example, and more emphasis should be placed on supporting decentralized approaches.¹¹⁴ Incorporating gender-responsiveness in project design and implementation can lead to more effective outcomes, and therefore women's full and meaningful participation must be emphasized.¹¹⁵

Gender should not be conflated with women's rights, as a gender lens speaks to the rights of all regardless of gender identity or expression, nor should it be considered alone, as it is intertwined with a variety of socio-cultural factors. Climate finance should not only support enhanced inclusion of women and girls in decision-making about climate action, but should make substantive gender equality an objective of financed activities, recognizing intersections of class, age, ethnicity, race, gender expression, gender identity, education, ability, and geography, among others. To that end, policies must firmly integrate women's rights and gender equality into climate finance project structures, including in decision-making, project development, implementation, and monitoring.¹¹⁶ To begin with, climate finance projects should ensure that women — who have been subjected to discrimination historically and who continue to face unequal treatment and structural inequalities — have equal opportunities to participate, drive decision-making, and take on leadership roles in project design and implementation. Doing so requires using methods for participation that are gender-responsive and take into account gender disparities and inequalities so as to overcome them,¹¹⁷ and including gender balance and gender expertise throughout all levels of financing institutions (including decision-making bodies and staff).¹¹⁸ During project development, project assessments should explicitly consider gender risks and impacts, and financiers should require the development of gender action plans for each project or sub-project that poses such risks, to avoid or mitigate adverse impacts that magnify gender inequalities.¹¹⁹ Lastly, it is critical to integrate women's rights and gender equality in implementation and monitoring. A few examples of how this can be done include: monitoring gender-disaggregated data;¹²⁰ incorporating participatory monitoring with roles for local women and Indigenous women;¹²¹ and ensuring that redress mechanisms are accessible to women who may be harmed.¹²² Climate finance projects should also be designed in a way that provides equal opportunities for social and economic benefits.¹²³



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Indigenous Peoples

Indigenous Peoples, who have long faced historical oppression, erasure, and separation from their lands, are both on the frontlines of climate impacts, and the forerunners of climate solutions, possessing specific and unique knowledge as stewards of the land and resources. This makes them essential leaders and participants in climate planning and action.¹²⁴ Thus, respecting Indigenous Peoples' rights and their traditional knowledge is essential to effective climate action. In the context of climate finance, this means policies should include a commitment to respecting, protecting, and promoting the rights of Indigenous Peoples, including the right to self-determination, the right to FPIC, collective rights, the right to development, and the right to their lands and resources, among others.¹²⁵ To do this, safeguard policies should refer to the UN Declaration on the Rights of Indigenous Peoples, as it recognizes Indigenous Peoples' inherent rights and serves as a comprehensive international instrument on their rights.¹²⁶ For example, the GCF's Environmental and Social Policy states: "The design and implementation of activities will be guided by the rights and responsibilities set forth in the United Nations Declaration on the Rights of Indigenous Peoples including, of particular importance, the right to free, prior and informed consent[.]"¹²⁷ Similarly, the Adaptation Fund states that it "shall not support projects/programmes that are inconsistent with the rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples"¹²⁸ and the GEF references the International Labour Organization (ILO) Convention 169 in discussing its standard of FPIC.¹²⁹

In addition to specific mention of Indigenous Peoples' rights within the safeguards system, some institutions have created a stand-alone policy regarding Indigenous Peoples. For example, the GCF has a specific Indigenous Peoples Policy¹³⁰ in addition to specifying in its Environmental and Social Policy that "All GCF-financed activities will avoid adverse impacts on indigenous peoples, and when avoidance is not possible, will minimize, mitigate and/or compensate appropriately and equitably for such impacts, in a consistent way and improve outcomes over time; promote benefits and opportunities; and respect and preserve indigenous culture, including the indigenous peoples' rights to lands, territories, resources, knowledge systems, and traditional livelihoods and practices."¹³¹ Whether as part of a stand-alone policy or part of a larger safeguards package, respect for the traditional knowledge of Indigenous Peoples is a critical component.¹³²

Beyond avoiding harmful impacts on Indigenous Peoples, rights-compatible climate finance takes steps to ensure that Indigenous Peoples are part of the identification, design, implementation, and oversight of climate activities, and benefit from them directly (see additional discussion in "*Public Participation and Stakeholder Consultation*" on page 19). For example, the GCF's policy notes that "All GCF-financed activities will support the full and effective participation of indigenous peoples and recognize their contribution to fulfilling the GCF mandate throughout the entire life cycle of the activities,"¹³³ and it has created an Indigenous Peoples Advisory Group.¹³⁴ Other climate finance mechanisms have provided opportunities for Indigenous Peoples' participation in decision-making. For example, the Climate Investment Funds (CIFs) have allocated two observer seats per committee and

sub-committee to Indigenous representatives and have established a Dedicated Grant Mechanism for Indigenous Peoples and Local Communities.¹³⁵ The UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation (UN-REDD) has created national working groups that include Indigenous Peoples.¹³⁶

Cultural Heritage

Cultural heritage can both be affected by and utilized in climate finance projects. When tangible or intangible cultural heritage is altered or damaged, it can interfere with the right to take part in cultural life.¹³⁷ The United Nations Educational, Scientific and Cultural Organization (UNESCO) has adopted conventions for the protection of both tangible (including physical artefacts such as buildings or artistic creations) and intangible (such as oral traditions and traditional craftsmanship) cultural heritage.¹³⁸ Safeguard policies should reflect these protections and expand cultural heritage to include all its forms, whether they are recognized at the international (such as a UNESCO World Heritage Site), national, or community level.¹³⁹ In cases where a project proposes to use cultural heritage, for example, using the knowledge or practices of local communities, it is essential that it does so only with the prior consent of the people concerned, obtained through transparent, meaningful, and effective participation.¹⁴⁰ In cases where there is commercialization of such heritage, it must include fair and equitable benefit-sharing.¹⁴¹

Cultural heritage is often linked to the presence of Indigenous Peoples, and as articulated on page 15, the policy should specify that if a project is going to impact either the tangible or intangible cultural heritage of Indigenous Peoples, the project proponent must first obtain FPIC from the Indigenous Peoples who will be affected.¹⁴² Similarly, if cultural heritage will be used for commercial purposes, the policy should specify that FPIC must be obtained for equitable benefit-sharing.¹⁴³

Involuntary Resettlement

Climate change is already causing significant displacement and, as its effects accelerate, is likely to uproot many more people, adding to the growing global population of climate refugees. Against this backdrop, it is all the more critical that safeguard policies prevent climate finance from contributing to activities that cause or contribute to involuntary resettlement and displacement.¹⁴⁴ In the event that involuntary resettlement and displacement cannot be avoided, resettlement action plans should be developed in consultation with those being displaced and should ensure that the livelihoods of displaced peoples are improved or, at least, restored.¹⁴⁵ Additionally, a safeguard for involuntary resettlement should apply not only to physical displacement, but also to economic displacement due to a project. It should also capture downstream impacts.¹⁴⁶ For example, a hydropower project may impact not only people in the project area, but also people who rely on the river for their water, food, or livelihoods. In designing

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safeguards on involuntary resettlement and displacement, the policy should include these impacts as well, for example, by restoring the livelihoods of all the communities that have been negatively impacted and by ensuring gender-responsive compensation schemes.

Marginalized and Vulnerable Groups

Climate change disproportionately harms vulnerable groups, and safeguards should be put in place to ensure that climate action avoids perpetuating or increasing harms. In the planning and implementation of climate finance projects, financiers and implementers should both work to enable direct access to finance by these groups, as discussed on page 10, and ensure that they consider and avoid the particular impacts on vulnerable and marginalized groups, including children, persons with disabilities, the elderly, LGBTQIA+ people, refugees, migrants, and tribal groups, in addition to women and girls and Indigenous Peoples.¹⁴⁷ For example, there should be consideration of how a project affects the right of children to education¹⁴⁸ or of additional barriers that persons with disabilities may face in realization of their rights.¹⁴⁹ Enabling these groups to actively participate in project development and implementation both respects their rights to shape their own lives and futures and enhances project effectiveness. These steps could include, for example, holding additional consultations for youth or the elderly or ensuring that consultations are accessible to persons with disabilities. To ensure climate finance protects these groups, safeguard policies should reference the obligations set forth under international human rights law, including the Convention on the Rights of the Child¹⁵⁰ and the Convention on the Rights of Persons with Disabilities,¹⁵¹ among others.

Climate finance safeguard policies should also avoid adverse human health impacts (i.e., impeded access to health services) and instead provide health co-benefits that can help alleviate additional barriers that are preventing communities from improving their livelihoods.¹⁵²

Labour

Climate finance projects often involve employment opportunities or have an impact on workers. While the impacts differ depending on the nature and size of the project, labour rights must be respected in all climate finance actions. As such, the safeguard policies should include a commitment to adhere to the eight core ILO conventions¹⁵³ and all core labour standards, including prohibitions on forced labour and child labour, as well as freedom from discrimination at work, freedom of association, and the right to join a union and collectively bargain, among others. For example, the Adaptation Fund's policy says that projects it supports "shall meet the core labour standards as identified by the International Labor Organization."¹⁵⁴



Environmental Safeguards Biodiversity & Critical Habitats

The climate crisis and biodiversity crisis are inextricably linked, and climate finance activities not only impact people, but also the environment. As such, safeguard policies should include provisions that explicitly protect and conserve biodiversity, prevent significant reduction or loss of biodiversity, and avoid the introduction of known invasive species.¹⁵⁵ Activities should also support the protection, maintenance, and rehabilitation of natural habitats. Biodiversity protections can also support respect for the rights of Indigenous Peoples, land tenure rights, and the right to water and food, among others.

Climate finance policies should specify that biodiversity should be protected and conserved.¹⁵⁶ They should identify habitats within which the finance institution will not fund activities (i.e., "no-go zones"), and they can build upon existing policies at the GEF, the Adaptation Fund, and the GCF. This should include prohibitions on activities impacting critical natural habitats, including prohibiting their degradation or significant conversion.¹⁵⁷ Moreover, biodiversity offsets should be avoided. Drawing from the GCF, a safeguard on biodiversity should also specify that it will avoid activities that negatively impact water flows.¹⁵⁸ Additionally, it should explicitly include the consideration of transboundary impacts.¹⁵⁹

Lastly, policies should prohibit financing any activities that would violate applicable international environmental agreements.¹⁶⁰ Relevant agreements include, among others: the Convention on Biological Diversity (CBD), the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, the Convention on International Trade of Endangered Species of Wild Flora and Fauna (CITES), and the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention).¹⁶¹

Pollution Prevention

It goes without saying that projects intended to resolve and respond to climate change should not cause other environmental harm, including transboundary harm.¹⁶² For example, they should minimize the extent to which they pollute air, water, and soil; minimize waste; and include provisions to prevent pollution.¹⁶³ These forms of pollution not only harm the environment, but can have significant impacts on human health. Additionally, climate finance should actively promote projects that have the co-benefit of addressing these harms as well, for example, prioritizing clean energy access for households so as to alleviate the need to use biomass for cooking, which, as noted above, can have severe health impacts for women and children due to the black carbon air pollution.¹⁶⁴

Safeguard provisions pertaining to pollution should specify that projects should comply with relevant international environmental law agreements regarding environmental hazards, contamination, and waste, such as the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Conven-

tion on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, and the Stockholm Convention on Persistent Organic Pollutants.¹⁶⁵

Procedural Protections

Access to information, participation in decision-making, and justice are core principles of international environmental and human rights law, and these three pillars of environmental democracy should be central to the design, planning, and implementation of climate finance projects or programmes.¹⁶⁶

Access to Information

Access to timely, comprehensive, and appropriately provided information is essential to rights-compatible climate finance. Information disclosure is fundamental to the realization of the rights to participation and Indigenous Peoples' right to FPIC. Information about projects and their potential environmental and human rights impacts and benefits must be disclosed at the earliest stage of the project to include communities in project design and throughout implementation. Further, sharing information on funding priorities for the institution in host countries helps ensure that communities have an opportunity to provide feedback and influence these priorities before projects are designed.

Project information and assessments should also be publicly accessible, be made available in multiple formats and relevant languages, and include non-technical descriptions of proposed projects, clearly stated risks and benefits, and any alternative approaches.¹⁶⁷ Climate finance providers should adopt a



principle of maximum disclosure with very limited exceptions.¹⁶⁸ Additionally, they should take all necessary steps to ensure that all potentially affected people have access to project information and adjust how the information is presented to ensure it is understandable and actionable. Such adjustments include providing information in local languages and in multiple formats that are culturally appropriate, taking into consideration that people may lack internet, have difficulty reading, or may face other barriers to access the information because of their position in a marginalized group, such as Indigenous Peoples, women, children, persons with disabilities, older persons, LGBTQIA+ people, and minorities.¹⁶⁹

Public Participation and Stakeholder Consultation

Inextricably linked with access to information are public participation and meaningful stakeholder consultation.¹⁷⁰ Time and again, studies show that involving Indigenous Peoples and local communities in the design of projects and throughout their implementation leads to better projects and more effective climate action.¹⁷¹ Respecting and protecting human rights requires transparency and participation of people at all levels, as well as ensuring that projects are designed in consultation with local people/those who are designed to benefit from them. Climate finance institutions should adopt a comprehensive policy on public participation and stakeholder engagement to ensure the meaningful participation of all potentially affected people. Importantly, it should specify that meaningful consultation is “timely, effective, inclusive, and held free of coercion and in an appropriate way for communities that are directly affected by the proposed project.”¹⁷² As elaborated on page 21, this policy should make clear that there is no tolerance for retaliation or reprisals, and put in place measures to respond to threats, because people must feel free to participate in a consultation and express their views.¹⁷³

Stakeholder engagement must begin by identifying stakeholders and creating a consultation process at the earliest stages of project design. It should ensure engagement with individuals and communities who are the most marginalized, including Indigenous Peoples, women and girls, youth, the elderly, persons with disabilities, LGBTQIA+ people, and minorities.¹⁷⁴ Meaningful stakeholder engagement may require designing and holding separate consultations, for example, with women only, to ensure that all voices are considered.¹⁷⁵ Critically, it should provide the requisite financial support and capacity-building to project proponents as well as communities to help facilitate and strengthen stakeholder engagement.¹⁷⁶

Because meaningful stakeholder participation is an ongoing process, it is not a check-the-box exercise. The Adaptation Fund, for example, requires information about the project’s environmental and social screening, discloses and consults on

draft environmental and social assessments,¹⁷⁷ and requires increased transparency throughout the project cycle, beginning with project design and continuing throughout the project. This includes disclosing concept notes, all plans for mitigating impacts or enhancing benefits, environmental and social impact assessments, human rights impact assessments, and any resettlement action plans or Indigenous Peoples plans in ways that are accessible and understandable for potentially affected communities, so that they can all be subject to public consultation.¹⁷⁸ According to that consultation, these documents and plans should then be revised as necessary, and final versions should be publicly disclosed.

Finally, as mentioned above, Indigenous Peoples have additional protections under international law requiring their FPIC, and meaningful consultation is fundamental to ensuring FPIC.¹⁷⁹ Processes for achieving FPIC must respect local customs and decision-making practices. FPIC is necessarily an iterative process that requires ongoing consultation with Indigenous Peoples to secure their consent, or lack thereof.¹⁸⁰

Although the COVID-19 pandemic has presented new hurdles to meaningful public participation, many of the challenges of ensuring meaningful participation are not new. Whether the cause is a global pandemic or a climate-fueled disaster, contingency plans for achieving meaningful participation remotely must be considered. This may require additional steps and efforts to disseminate information and extended time periods for submitting comments. There are circumstances in which meaningful participation and consultation will be impossible, and this should prevent some projects, in particular higher risk projects, from going forward.

Right to Remedy

Even when policies are in place to protect and respect human rights, things can and do go wrong during implementation. In such cases, individuals and communities need to have access to remedy and redress for harms arising from climate finance projects. Ensuring the right to remedy in the context of climate finance requires access to independent grievance redress mechanisms at multiple levels, including at the project level and the institutional level.

Over the last 25 years, grievance redress mechanisms have become the norm for development finance institutions and many businesses and banks. These most often include a compliance review function, dispute resolution function, and potentially an advisory function for the mechanism to provide advice to the institution it serves. To be effective, a grievance redress mechanism must be legitimate, accessible, predictable, equitable, transparent, rights-compatible, and a source of continuous learning.¹⁸¹ This is true for grievance redress mechanisms (also called independent accountability mechanisms) both at the institutional level and the project-level.

A Deeper Dive on Successful Redress Mechanisms

Legitimate: A legitimate, trusted grievance redress mechanism must be independent and free from undue influence of the institution with which it is associated. It should not be a part of or report to the management of the institution that it is tasked with holding accountable, and it should protect members of the mechanism from removal except for just cause.^{xviii} In recent years, some institutions have opted to share a grievance redress mechanism, which creates additional independence, as it is not tied directly to any one financier, but may lead to other challenges.^{xix} The composition of the staff of the mechanism is important, and including independent people (such as representatives of communities, NGOs, or academia) helps instill trust in the mechanism.^{xx} The mechanism should also have the power to issue recommendations and the ability to monitor implementation of those recommendations and make adjustments if necessary.^{xxi} Demonstrating the impact of a grievance mechanism builds trust.

Project-level grievance mechanisms should be developed in partnership with local community stakeholders because they will know both what harms may occur and what type of grievance procedures will work best for them.^{xxii} Also, at the project-level, project implementers may want to take advantage of existing non-judicial grievance mechanisms at the local, regional, or national level, rather than creating their own, since these existing mechanisms have the benefit of being independent and may already be trusted and seen as legitimate by the affected communities.^{xxiii}

Accessible: A mechanism is only as useful as it is able to be used by the individuals and communities who are or potentially will be harmed by the project. Clients or partners of the financial institution should be required to share information about the grievance mechanism at the project level in a place and format that is culturally appropriate and in the relevant language(s) to ensure people know that it exists.^{xxiv} The mechanism itself can undertake outreach activities, including disseminating information about its procedures and how to access it in multiple languages,^{xxv} or it may work with other grievance mechanisms to do outreach events. These types of activities should be supported by the institution and the mechanism should be given the budget to do so.

The mechanism should reduce all barriers to accessing it and create processes to help complainants overcome any barriers that do exist. Eligibility requirements for filing a complaint should be minimal, allowing an individual or a group of people (or a person or entity empowered to represent those people) to file a complaint when they have been harmed or think that they may be harmed.^{xxvi} The complaint should be accepted in any language and in any format (i.e., by phone, SMS, mail, email, video, etc.),^{xxvii} and the complainants should only need to indicate the harm experienced or that may be experienced, and should not be required to cite any standards or laws that are being violated.^{xxviii} The mechanism should also accept confidential complaints and have systems in place to ensure that confidentiality of complainant(s) is kept throughout the process of an investigation. The mechanism itself should have a strong, publicized, and enforced policy against reprisals that complements that of the institution, and procedures in place to both prevent and address reprisals.^{xxix}

Predictable: The mechanism should be predictable for its potential users.^{xxx} The procedures and processes for filing a complaint should be clear and publicly known. It should make publicly available information detailing its promised timeframes for completing each phase of the process (i.e., registration of complaint, initial screening, etc.) and adhere to those deadlines. If the mechanism experiences delays, it should consistently communicate with complainants about the status of their complaint and update its timeframe.

Equitable: It is critical that the mechanism have in place measures and resources to help level the playing field and make sure that one party (the financial institutions or project implementer) is not privileged over another (the complainant). For example, complainants must have access to information and the freedom to consult advisors and experts who may be able to assist them. Draft compliance reports should be shared with the complainants and management simultaneously, with both given the ability to provide comment.^{xxxi} Additionally, complainants should be consulted on the development of the remedial action plan and be involved in monitoring its implementation.^{xxxii}

A Deeper Dive on Successful Redress Mechanisms

Transparent: To increase effectiveness and legitimacy, grievance mechanisms should operate in a transparent manner.^{xxxiii} Transparency includes publishing information on a dedicated, language-appropriate website, which should include its procedures, a case registry with both eligible and ineligible complaints, its budget, the outcomes of complaint processes, monitoring reports, a sample complaint, and clear instructions on how to contact the mechanism.

Rights-Compatible: Though a grievance mechanism is most often responding to harms and alleged failures of institutions to respect and protect human rights of affected communities, it must also operate in a rights-compatible manner that respects the dignity of complainants and is sensitive to local cultural norms or circumstances of complainants.^{xxxiv} To this end, it is essential that the underlying policies against which it is assessing compliance (i.e., the safeguards) are themselves robust and conform to human rights law. The outcomes of a complaint process and remedies should accord with internationally recognized human rights norms, and the mechanism should be empowered to stop or recommend stopping a project in the event that human rights abuses are severe or ongoing.^{xxxv} Rights-compatibility also requires that the mechanism itself has policies in place to prevent and address retaliation against complainants, as well as those who may be assisting in the grievance redress process.^{xxxvi}

Source of Continuous Learning: Because they receive complaints identifying specific harms from which larger trends can be assessed, grievance mechanisms are often first to see gaps in an institution's safeguards system, whether in the policies or in their implementation. Grievance mechanisms can play a critical role in exposing learnings and providing insight and advice to the project implementers and parent institutions, especially as trends emerge. While mechanisms can provide this input informally,^{xxxvii} it is best practice for a mechanism to have a formal advisory role.^{xxxviii} In this capacity, the redress mechanism can also identify actors or types of projects that lead to frequent complaints.^{xxxix}

Additionally, grievance mechanisms themselves should be learning institutions. They should use their experiences to review and improve their own policies and procedures, as well as to develop new operating procedures when necessary, as in the example of retaliation procedures. As part of learning, grievance mechanisms should also engage with those who have used their mechanisms to learn how to improve.

Retaliation

In a global context in which human rights and environmental defenders are increasingly threatened and attacked, financiers, governments, and businesses should take steps to prevent such attacks and hold those who perpetrate them accountable. Every year, environmental and human rights defenders face increasing attacks, including violence, criminalization, death threats, and assassinations.¹⁸² In its most recent report, Global Witness found that 2019 was the deadliest year for defenders; 212 human rights, land, and environmental defenders were killed.¹⁸³ Within this category of human rights and environmental defenders, Indigenous Peoples, who face disproportionate climate impacts and are essential to combatting climate change, face some of the highest risks of reprisals for their efforts to defend their lands and rights.¹⁸⁴

There must be a widely publicized zero-tolerance policy for retaliation and reprisals¹⁸⁵ to make it abundantly clear that attacking, threatening, criminalizing, or other forms of retaliation against environmental and human rights defenders — including those who complain to grievance mechanisms about the impacts of climate finance projects — is unacceptable. Impact assessments conducted as part of climate finance projects or programmes should identify risks to defenders, as well as the steps needed to prevent and address those risks. This is closely tied to the need to have transparent and participatory HRIAs (see page 14).¹⁸⁶ In instances of retaliation, there should be immediate public condemnation and every effort made to hold perpetrators accountable. This can include, for example, creating a debarment list and not channeling climate finance through entities that are tied to threats or attacks on environmental and human rights defenders.

Systems to report instances of retaliation or wrongdoing are also critical. This architecture can include a grievance redress mechanism, as discussed above, as well as a policy on whistleblowers and witness protection.¹⁸⁷ To help prevent retaliation, as well as to address any underlying factors that contribute to retaliation, there should be monitoring and consultation with local communities throughout the development and implementation of a project.

Financial Intermediaries

A critical challenge in financing projects and programmes is ensuring compliance with social and environmental safeguards along supply chains and in all associated subprojects, especially when funding flows through financial intermediaries. When climate finance flows through financial intermediaries or involves significant subprojects through a larger financing programme, oversight becomes increasingly difficult, making safeguard compliance more challenging.¹⁸⁸ The climate finance entity's safeguard policy should address this directly and include a specific section on the roles and responsibilities of entities functioning as financial intermediaries, specifically detailing their obligations and responsibilities vis-à-vis subprojects and the due diligence required.¹⁸⁹ These safeguards should require all subprojects to comply with the social and environmental safeguards of the financing institution.

Monitoring

While policies are critical and can steer funding towards rights-based climate action, they are only as good as their implementation. If the policies are not put into practice, climate finance risks violating human rights. Implementation requires robust monitoring — including independent, third-party monitoring and participatory monitoring from local communities, Indigenous Peoples, or civil society organizations in the project area or country — and the appropriate budget for it.¹⁹⁰ Such monitoring avoids reliance on self-reporting by the project proponents, which can result in overstating positive aspects or understating harms and challenges that have occurred.¹⁹¹ Independent, third-party monitoring of project implementation should include not only local communities, but also independent experts with requisite knowledge to assess human rights compliance. Participatory monitoring can enhance local community engagement in project implementation and provides project proponents feedback with which to make necessary adjustments and modifications.¹⁹² Participatory monitoring should be inclusive, gender-responsive, and culturally sensitive by ensuring that the tools used advance gender equality and share experiences from marginalized and vulnerable groups, including Indigenous Peoples and women, among others.¹⁹³

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PART 4

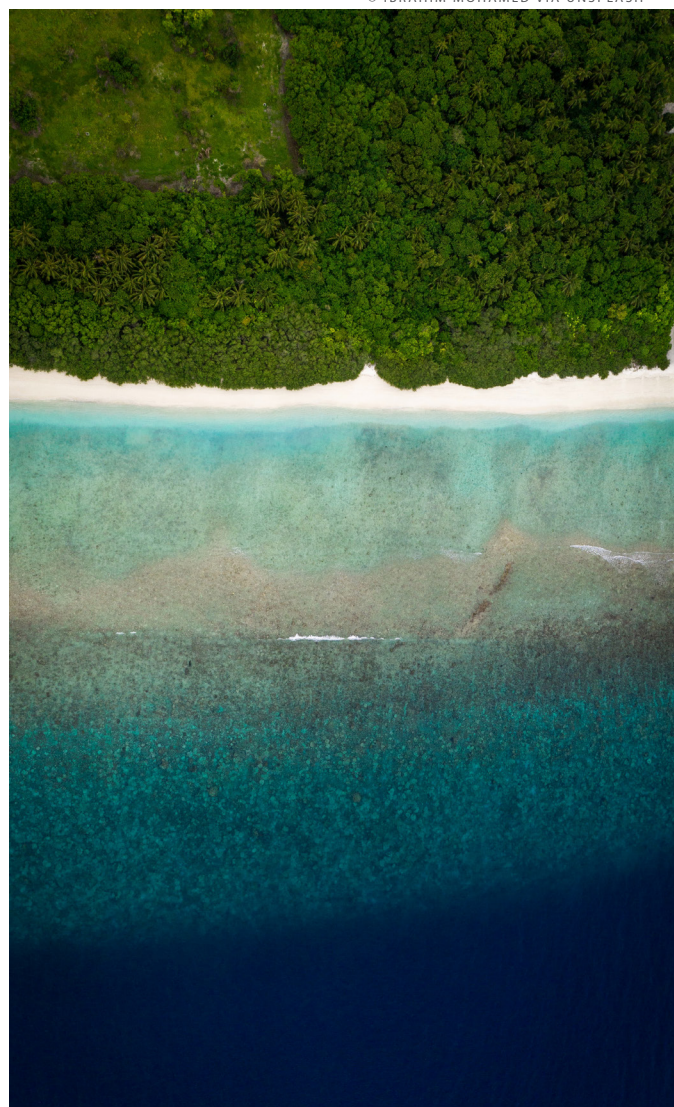
Essential Questions to Ask in Undertaking Climate Finance

Drawing on the principles and policies discussed above, the following list presents a non-exhaustive set of questions that project financiers and proponents can use to assess the rights-compatibility of public climate finance.

For Financiers:

- Do your climate finance commitments satisfy your fair share — given your country's historical contributions to climate change and available resources — and State obligations to ensure climate finance is additional to existing development aid?
- Have you provided transparent, accessible, and detailed information on the amount of finance provided, how and through what financial instruments it is being provided, and where it is going, among other relevant information that allows for full understanding and accounting of this finance, in a manner comparable across financing mechanisms?
- Are the mechanisms through which you are channeling climate finance fit for purpose; governed in a transparent, equitable, and participatory fashion; and capable of reaching those most in need?
- Have you provided finance in the form of grants or otherwise ensured that the financing will not generate new debt for developing countries?
- Have you assessed the coherence of other finance, trade, and investment policies with the climate action financed, to ensure those policies do not undercut mitigation, adaptation, or remediation objectives of climate finance by subsidizing or promoting fossil fuel production or infrastructure or impeding countries from taking action to curb fossil fuel production, deforestation and emissions-intensive industrial agriculture?
- Have you developed an exclusion list, identifying those types of activities or technologies that are categorically ineligible for climate finance?
- Does this climate finance advance a proven climate solution that reduces greenhouse gas emissions from fossil fuel use and deforestation (the primary drivers of climate change), increases natural carbon sinks, or supports community-responsive measures to adapt to a changing climate?

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For Financiers & Project Proponents:

- Have you conducted an Environmental and Social Impact Assessment?
- Have you conducted a Human Rights Impact Assessment?
- Have you adopted a human rights policy that explicitly states that projects or programmes financed will respect, protect, and promote human rights?
- Have you conducted a gender impact assessment and developed a Gender Action Plan with clear actions, indicators, assigned responsibilities and timelines, and adequate budgets that not only prevent gendered impact, but proactively address and change harmful gender norms and gendered balance of power?
- Are there Indigenous Peoples who may be impacted by the project? If yes,
 - o Have you created an Indigenous Peoples Planning Framework (IPPF)?
 - o Have you engaged in a process and obtained free, prior, and informed consent?
 - o Have you created an Indigenous Peoples Plan?
 - o Have you continued engagement with the affected Indigenous Peoples?
- Have you consulted with local communities and Indigenous Peoples in the design and development of the project to ensure their needs and priorities are reflected and they can benefit directly from interventions?
 - o Did you provide project information in local language(s)?
 - o Did you provide project information in a culturally appropriate format?
 - o Did you provide ways for people to participate based on specific vulnerabilities (i.e., a separate session for women and girls)?
 - o Do you have a stakeholder engagement plan to ensure continued engagement throughout the implementation of the project, including by engaging them actively in participatory monitoring efforts?
 - o Did you provide a reasonable timeframe for responses and input?
- Have you taken steps to avoid and mitigate any harm to cultural heritage?
- Have you created a Resettlement Action Plan and gender-responsible compensation procedures, if relevant?
- Does the project impact biodiversity?
 - o Is it near critical habitat and/or vulnerable or endangered species? If yes, have you made adjustments to avoid impacts on critical habitat?
- Is there a legitimate, accessible, predictable, equitable, transparent, and rights-compatible grievance redress mechanism that is also a source of continuous learning?
- Is there a legitimate, accessible, predictable, equitable, transparent, and rights-compatible project-level grievance mechanism?
- Have you distributed information to potentially affected people to access the project-level grievance mechanism and/or other grievance mechanisms at the institutional level, including policies on retaliation and reprisals against human rights and environmental defenders?



PART 5

Conclusion

The world is in the midst of a climate emergency. Climate finance has the potential to fund climate action in an equitable manner and at the scale and speed needed to avoid global temperature rise above 1.5°C and prevent the most catastrophic impacts of the climate crisis. Not only is finance integral to addressing the climate emergency, it also has the potential to transform Earth’s resilience, both by contributing to a truly sustainable global ecosystem through green growth, and by increasing social justice through the alleviation of poverty, discrimination, and inequalities.

Crucially, as the world reels from the impacts of COVID-19 and the associated economic crisis, climate finance can help ensure a sustainable recovery as countries build back greener, smarter, and fossil-free. Doing so at the scale and with the urgency needed requires vast amounts of money — significantly more than currently provided — to be channeled expeditiously to rights-compatible projects and programmes designed to address the mitigation and adaptation needs of countries, and to cover the costs of loss and damage due to climate change. As countries renew their commitments to implementing the Paris Agreement, it is essential that those most responsible for the climate crisis provide their fair share of climate finance.

Aligning climate finance with human rights demands more than incremental change or simple checkboxes. Confronting a crisis created by years of sluggish climate action and anemic resource mobilization requires putting money behind bold, community-driven strategies and denying scarce public funds to projects that prolong status quo systems of unsustainable production and consumption. To support that shift, contributors need to radically ramp up and redirect climate finance toward proven mitigation measures, through mechanisms that reach those most at risk, and using financial instruments that help repay the climate debt owed by developed countries, not create new financial debt for developing countries and those most threatened by climate change.

As this report makes clear, it is not enough for climate finance to “do no harm.” Activities supported through climate finance must also advance human rights. The capacity of climate finance to do so depends as much on *what* projects are supported, *how many*, *where*, and through *which* types of financing as it does on *how* those projects are implemented. Those dimensions of climate finance require further attention in future

publications, and in ongoing reporting of climate finance flows. This report’s emphasis on the fifth pillar of essential components for rights-compatible climate finance — safeguarding rights and the environment during implementation — serves as a starting point for a broader examination of the alignment between climate finance flows and formulations, on the one hand, and human rights imperatives and obligations on the other.

Climate finance decisions made today determine social resilience tomorrow. If implemented at scale and in adherence to the five central pillars outlined in this report, climate finance has the power to transform global climate action and ensure the right to a safe climate for communities around the globe and the generations to come.



Endnotes

1. See, e.g., Five UN human rights treaty bodies issue a joint statement on human rights and climate change, *Joint Statement on "Human Rights and Climate Change"* (Sept. 16, 2019), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24998&LangID=E> [hereinafter *Joint Statement on "Human Rights and Climate Change"*]; Joint Statement of Special Procedures Mandate Holders, UN Climate Action Summit, *Our addiction to fossil fuels causes climate emergency, say human rights experts* (Sept. 17, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25003&LangID=E> [hereinafter *Joint Statement of Special Procedures Mandate Holders*]. The former UN Special Rapporteur on Human Rights and the Environment (officially UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment) has emphasized the links between climate change and human rights, for example, noting the "... greater the increase in average temperature, the greater the effects on the right to life and health ...". John Knox (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable development), *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, paras. 23-39, 65, 68, U.N. Doc. A/HRC/31/52 (Feb. 1, 2016).
2. Agence France-Presse in Geneva, *Climate crisis is greatest ever threat to human rights, UN warns*, The Guardian (Sept. 9, 2019), <https://www.theguardian.com/law/2019/sep/09/climate-crisis-human-rights-un-michelle-bachelet-united-nations>.
3. Intergovernmental Panel on Climate Change (IPCC), *Summary for Policymakers, in Global Warming of 1.5°C: An IPCC Special Report on the Impacts of Global Warming of 1.5°C Above Pre-Industrial Levels and Related Global Greenhouse Gas Emissions Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty*, B.5 (V. Masson-Delmotte et al. eds., 2018), <https://www.ipcc.ch/sr15/> [hereinafter *Summary for Policymakers, in IPCC Special Report on 1.5°C*] (stating "Climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth are projected to increase with global warming of 1.5°C and increase further with 2°C.").
4. See David R. Boyd (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable development), *Human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, para. 62, U.N. Doc. A/74/161 (July 15, 2019) (noting that States have obligations to protect human rights from environmental harm and to comply with international human rights obligations, they should apply a rights-based approach to climate action as doing so "catalyses ambitious action") [hereinafter UN Special Rapporteur, *Safe Climate Report*]; *Joint Statement on "Human Rights and Climate Change," supra* note 1.
5. See generally United Nations Climate Change, Introduction to Climate Finance, <https://unfccc.int/topics/climate-finance/the-big-picture/introduction-to-climate-finance> (last visited Jan. 29, 2021); UN Environment Programme, Climate finance, <https://www.unenvironment.org/explore-topics/climate-change/what-we-do/climate-finance> (last visited Jan. 29, 2021).
6. See Oscar Reyes, *Change Finance, Not the Climate* 20-21 (June 2020).
7. United Nations Framework Convention on Climate Change, arts. 4.3, 4.4, May 9, 1992, 1771 U.N.T.S. 107 [hereinafter UNFCCC]. This responsibility was reaffirmed in the Paris Agreement. Paris Agreement art. 9, Dec. 15, 2015, T.I.A.S. No. 16-1104.
8. Hannah Ritchie & Max Roser, *CO₂ and Greenhouse Gas Emissions*, <https://ourworldindata.org/co2-and-other-greenhouse-gas-emissions#the-long-run-history-cumulative-co2> (last visited Jan. 29, 2021); Climate Watch, Global greenhouse gas emissions database, www.climatewatchdata.org/ghg-emissions (last visited Jan. 29, 2021); Johannes Friedrich & Thomas Damassa, *The History of Carbon Dioxide Emissions* (May 21, 2014), <https://www.wri.org/blog/2014/05/history-carbon-dioxide-emissions>.
9. UNFCCC, *supra* note 7, at art. 3(1); see also U.N. Conference on Environment and Development, *Rio Declaration on Environment and Development*, U.N. Doc. A/Conf.151/26/Rev.1 (Vol. 1), principle 7 (Aug. 12, 1992) [hereinafter *Rio Declaration*]; Gita Parihar & Kate Dooley, *Human Rights, differentiated responsibilities? Advancing equity and human rights in the climate regime*, in *Routledge Handbook of Human Rights and Climate Governance* 266-67 (Duyck et al. eds., 2018).
10. See, e.g., Parihar & Dooley, *supra* note 9, at 271, 275; CSO Equity Review Coalition, *Fair Shares: A Civil Society Equity Review of INDCs* (2015), civilsocietyreview.org/report.
11. *Summary for Policymakers, in IPCC Special Report on 1.5°C, supra* note 3, sec. D.7.4 (stating "Collective efforts at all levels, in ways that reflect different circumstances and capabilities, in the pursuit of limiting global warming to 1.5°C, taking into account equity as well as effectiveness, can facilitate strengthening the global response to climate change, achieving sustainable development and eradicating poverty (*high confidence*).").
12. See UNFCCC Conference of the Parties, Decision 2/CP.21, Copenhagen Accord, para. 8, FCCC/CP/2009/11/Add.1 (Mar. 30, 2010) [hereinafter *Copenhagen Accord*].
13. See Copenhagen Accord, *supra* note 12, at para. 8; UNFCCC Conference of the Parties, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, paras. 95, 98, FCCC/CP/2010/7/Add.1 (Mar. 15, 2011) [hereinafter *Cancun Agreements*]; UNFCCC Conference of the Parties, Decision 1/CP.17, Establishment of an Ad Hoc Working Group on the Durban Platform for Enhanced Action, pmbl. to paras. 126-32, FCCC/CP/2011/9/Add.1 (Mar. 15, 2012). By the end of this period, countries, based on self-reporting, had achieved this goal for so-called "fast-start finance," however the lack of definitions about what should be included and whether it was new or additional have made many question the accuracy of these numbers. See, e.g., Clifford Polycarp et al., *Summary of Developed Country 'Fast-Start' Climate Finance Pledges* (Nov. 2012), <https://www.wri.org/publication/summary-developed-country-fast-start-climate-finance-pledges> (analyzing the developed country contributions in the 2010-2012 period); Taryn Fransen, *Fast-Start Finance: Where Do We Stand at the End of 2012?* (Dec. 4, 2012), <https://www.wri.org/blog/2012/12/fast-start-finance-where-do-we-stand-end-2012>.
14. Copenhagen Accord, *supra* note 12, at para. 8.
15. UNFCCC Conference of the Parties, Decision 1/CP.21, para. 53, FCCC/CP/2015/10/Add.1 (Jan. 29, 2016).
16. Paris Agreement, *supra* note 7, at art. 9(1).
17. Paris Agreement, *supra* note 7, at art. 9(4).
18. Paris Agreement, *supra* note 7, at art. 8.
19. See generally Organisation for Economic Co-operation and Development (OECD), *Climate Finance Provided and Mobilised by Developed Countries in 2013-18* (Nov. 6, 2020), <https://www.oecd.org/newsroom/climate-finance-for-developing-countries-rose-to-usd-78-9-billion-in-2018oecd.htm> [hereinafter OECD, *Climate Finance Provided and Mobilised by Developed Countries in 2013-18*]. Finance can be given through multilateral channels, for example the World Bank or regional development banks, or through bilateral channels, namely individual country development agencies such as Lux-Development. See generally United Nations Climate Change, Multilateral and Bilateral Funding Sources, <https://unfccc.int/topics/climate-finance/resources/multilateral-and-bilateral-funding-sources> (last visited Jan. 28, 2021).
20. See generally Tracy Carty et al., Oxfam, *Climate Finance Shadow Report 2020: Assessing Progress Towards the \$100 Billion Commitment* (2020), <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621066/bp-climate-finance-shadow-report-2020-201020-en.pdf>. Cf. Andrew Hattle, CARE Denmark & CARE Netherlands, *Climate Adaptation Finance: Fact or Fiction?* (Jan. 2021), https://www.care-international.org/files/files/CARE_Climate_Adaptation_Finance_Fact_or_Fiction.pdf (finding that adaptation finance, in particular, is significantly over-reported).

21. See generally United Nations Environment Programme, *Adaptation Gap Report 2020* xiv (2021), <https://www.unep.org/resources/adaptation-gap-report-2020> (estimating adaptation costs to currently be \$70 billion annually and expected to rise to \$280-500 billion per year in 2050) [hereinafter *Adaptation Gap Report 2020*]; *Summary for Policymakers*, in IPCC Special Report on 1.5°C, *supra* note 3, at para. D.5.3 (estimating that \$2.4 trillion for investment in the energy system globally is needed between 2016-2035); Sophie Yeo, *Where Climate Cash is Flowing and Why it's not enough*, NATURE (Sept. 17, 2019), <https://www.nature.com/articles/d41586-019-02712-3>.
22. See, e.g., U.N. Charter arts. 55(c), 56 (pledging, through article 56, each Member State “to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55” including to “promote ... c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”); G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 28 (Dec. 10, 1948) [hereinafter UDHR]; International Covenant on Economic, Social and Cultural Rights art. 2(1), Dec. 16, 1966, 993 U.N.T.S. 3 (obliging States Parties “to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant ...”) [hereinafter ICESCR]; Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 (recognizing the importance of international cooperation in numerous articles of the Convention); G.A. Res. 41/128, Declaration on the Right to Development, art. 3(2) (Dec. 4, 1986) (noting the importance of international cooperation for the realization of this right throughout the Declaration and that realizing “the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.”).
23. See generally Human Rights Council (HRC), Res. 38/4 Human rights and climate change, U.N. Doc. A/HRC/RES/38/4 (2018); see also HRC, Res. 34/20, Human Rights and the Environment, U.N. Doc. A/HRC/34/20 (2017); HRC, Res. 32/33, Human Rights and Climate Change, U.N. Doc. A/HRC/RES/32/33 (2016); HRC, Res. 29/15, Human Rights and Climate Change, U.N. Doc. A/HRC/Res/29/15 (2015); HRC, Res. 26/27, Human Rights and Climate Change, U.N. Doc. A/HRC/Res/26/27 (2014); HRC, Res. 18/22, Human Rights and Climate Change, U.N. Doc. A/HRC/Res/18/22 (2011); HRC, Res. 10/4, Human rights and climate change, U.N. Doc. A/HRC/RES/10/4, pmb. (2009); HRC, Res. 7/23, Human Rights and Climate Change, U.N. Doc. A/HRC/Res/7/23 (2008).
24. See UN Special Rapporteur, *Safe Climate Report*, *supra* note 4, at para. 62.
25. See UN Special Rapporteur, *Safe Climate Report*, *supra* note 4, at paras. 62-70.
26. See UN Special Rapporteur, *Safe Climate Report*, *supra* note 4, at paras. 87-88.
27. See Joint Statement on “Human Rights and Climate Change,” *supra* note 1 (highlighting that States’ human rights obligations in light of climate change include international assistance and co-operation and “high-income States ... contributing to financing climate mitigation and adaptation”); see also Committee on the Elimination of Discrimination against Women, General Recommendation No. 37 on Gender-related dimensions of disaster risk reduction in the context of climate change, para. 45 U.N. Doc. CEDAW/C/GC/37 (Feb. 7, 2018), http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_37_8642_E.pdf (noting that obligations of States related to climate change includes that allocation of climate financing is a critical component of mitigating negative climate impacts and notes that “climate change prevention, mitigation and adaptation must be ensured both through national budgets and by means of international cooperation.”) [hereinafter CEDAW General Recommendation No. 37]; see generally Center for International Environmental Law (CIEL) & The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), *States’ Human Rights Obligations in the Context of Climate Change: 2020 Update* (Mar. 2020), <https://www.ciel.org/reports/states-human-rights-obligations-in-the-context-of-climate-change-2020-update-march-2020/> [hereinafter CIEL & GI-ESCR, *States’ Human Rights Obligations in the Context of Climate Change: 2020 Update*].
28. See Joint Statement on “Human Rights and Climate Change,” *supra* note 1.
29. CEDAW General Recommendation No. 37, *supra* note 27, at para. 45.
30. See, e.g., Committee on Economic, Social and Cultural Rights, Concluding observations on sixth periodic report of Denmark, E/C.12/DNK/CO/6, para. 15 (Nov. 12, 2019) (recommending “that the State party 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.”) [hereinafter CESCR Concluding Observations to Denmark].
31. See, e.g., Committee on the Elimination of Discrimination Against Women, Concluding Observations on the combined initial to third periodic reports of the Marshall Islands, U.N. Doc. CEDAW/C/MHL/CO/1-3, para. 45(c) (Mar. 14, 2018) (stating the need to ensure that women have equal access to climate finance, specifically the GCF). Additionally, both the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Rights of the Child (CRC) have recommended in their concluding observations (COB) to States that they strengthen international cooperation including seeking the support that developing states are entitled to for mitigating and adapting to climate change. CIEL & GI-ESCR, *States’ Human Rights Obligations in the Context of Climate Change: 2020 Update*, *supra* note 27, at 20 (noting that this occurred in the CESCR COB to Mauritius, 2019, CESCR Statement, 2018, and CRC COB to Palau, 2018); Center for International Environmental Law (CIEL) & Global Initiative for Economic, Social and Cultural Rights (GI-ESCR), *States’ Human Rights Obligations in the Context of Climate Change: 2019 Update* 13 (Mar. 2019), <https://www.ciel.org/reports/states-human-rights-obligations-context-climate-change-2019-update/> (discussing recommendations on climate finance and international cooperation and that this occurred in the CESCR COB to Bangladesh).
32. See, e.g., Vienna Convention on the Law of Treaties art. 18, May 23, 1969, 1155 U.N.T.S. 331 (obliging States that are signatories to international agreements not to defeat their object and purpose); Tessa Khan, *Promoting rights-based climate finance for people and planet*, paras. 48-50, U.N. Doc. A/HRC/WG.2/19/CRP.4 (Apr. 18, 2018).
33. Paris Agreement, *supra* note 7, at art. 2.1(c).
34. See, e.g., 2030 Agenda for Sustainable Development, targets 17.13-17.15; Addis Ababa Action Agenda, para. 9 (in both States committed to enhancing policy and institutional coherence for sustainable development); Khan, *supra* note 32, at para. 48.
35. See Khan, *supra* note 32, at para. 49; see generally Kyla Tienhaara & Lorenzo Cotula, *Raising the cost of climate action? Investor-state dispute settlement and compensation for stranded fossil fuel assets* (2020), <https://pubs.iied.org/17660iied> (analyzing how existing investment agreements, including their provisions for investor-state dispute settlement, should be altered to help enable climate action); Center for International Environmental Law (CIEL) & Friends of the Earth Europe, *Is World Trade Law a Barrier to Saving Our Climate? Questions and Answers* (Sept. 2009), https://www.ciel.org/Publications/ClimateTradeReport_foe-ciel_sep09.pdf (providing analysis to demonstrate that international trade law should not be seen as a barrier to climate action).
36. See Kate DeAngelis & Bronwen Tucker, *Adding Fuel to the Fire: Export Credit Agencies and Fossil Fuel Finance* (Jan. 2020), http://priceofoil.org/content/uploads/2020/01/2020.01.30_Adding-Fuel-to-the-Fire_final.pdf (finding that from 2016 to 2018 the ECAs in G20 countries provided over \$31 billion to the oil, gas and coal industry); see also Khan, *supra* note 32, at para. 50.
37. See Center for International Environmental Law, *A Center for International Environmental Law Draft Issue Brief: Export Credit Agencies and the World Trade Organization* 1 (Nov. 2003), https://www.ciel.org/Publications/ECAs_WTO_Nov03.pdf (noting that ECAs’ “mandate is to promote their own countries’ exports and foreign investments.”); ECAWatch, *What are ECAs?*, <https://www.eca-watch.org/node/1> (noting that ECAs provide support to corporations from their own countries to “make it easier for those corporations to do business abroad”) (last visited Mar. 7, 2021).
38. See Paris Agreement, *supra* note 7, at art. 9.
39. See, e.g., Business & Human Rights Resource Centre, *Renewable Energy & Human Rights Benchmark: Key Findings from the Wind & Solar Sectors* (2020), available at <https://www.business-humanrights.org/en/from-us/briefings/renewable-energy-human-rights-benchmark/>; Center for International Environmental Law (CIEL), *Rights in a Changing Climate: Human Rights Under the UN Framework Convention on Climate Change* 3 (Dec. 2019), <https://www.ciel.org/reports/12281/>; Alyssa Johl & Yves Labor, *A Human Rights-based Approach to Climate Finance* 3 (Feb. 2012), http://ciel.org/Publications/ClimateFinance_Feb2012.pdf.

40. All UNFCCC Parties have ratified at least three of these legally binding instruments, so while the scope of obligations differ, all Parties have legal obligations related to human rights and these obligations extend to climate activities. CIEL, *Rights in a Changing Climate: Human Rights Under the UN Framework Convention on Climate Change*, *supra* note 39, at 4.
41. See, e.g., CESCR Concluding Observations to Denmark, *supra* note 30, at para. 15 (recommending “that the State party 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.”); CIEL & GI-ESCR, *States’ Human Rights Obligations in the Context of Climate Change: 2020 Update*, *supra* note 27, at 20.
42. See UNFCCC Conference of Parties, Decision 1/CP.13, Bali Action Plan, para. 1(e)(i); Cancun Agreements, *supra* note 13, at paras. 95-97; Khan, *supra* note 32, at para. 58 (discussing the importance of climate finance being new and additional and beyond official development assistance).
43. Paris Agreement, *supra* note 7, at art. 9.5.
44. Paris Agreement, *supra* note 7, at arts. 9.7, 13.9.
45. See UNFCCC Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, Decision 12/CMA.1, FCCC/PA/CMA/2018/3/Add.1 (Mar. 19, 2019); see also World Resources Institute, Navigating the Paris Agreement Rulebook: Projected Finance Information, <https://www.wri.org/paris-rulebook/projected-finance-information> (last visited Mar. 3, 2021).
46. See UNFCCC Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, Decision 18/CMA.1, annex paras. 10(d), 118, 123-25, FCCC/PA/CMA/2018/3/Add.2 (Mar. 19, 2019).
47. See Carty et al., Oxfam, *supra* note 20, at 5 (elaborating recommendations for climate finance accounting rules including reporting on grant equivalent climate finance through the Common Tabular Format).
48. Copenhagen Accord, *supra* note 12, at para. 8.
49. See Reyes, *supra* note 6, at 135 (noting that “US\$100 billion is a politically expedient figure, rather than one based on an assessment of climate finance needs”).
50. See United Nations Climate Change, Determination of the needs of developing country Parties, <https://unfccc.int/topics/climate-finance/workstreams/needs-report> (last visited Feb. 26, 2021).
51. See Joint Statement of Special Procedures Mandate Holders, *supra* note 1 (highlighting the need for USD 100 billion in adaptation financing alone); Carty et al., Oxfam, *supra* note 20, at 12-13, 17-21 (finding that developed countries’ own reporting of their climate finance flows may overstate their allocations and that climate finance could be USD 10.5-13.5 billion lower than reported, and noting that even though adaptation finance increased in volume in 2017-2018 there remains a persistent gap in financing for adaptation, particularly in those countries least responsible for climate change but most vulnerable to its adverse impact, like low-lying island states); cf. Hartle, CARE Denmark & CARE Netherlands, *supra* note 20, at 1-3 (finding that the adaptation finance figures are extremely exaggerated and estimating that OECD’s estimates of US\$16.8 billion is actually only USD 9.7 billion).
52. See *Summary for Policymakers*, in IPCC Special Report on 1.5°C, *supra* note 3, at para. D.5.3; see also Sophie Yeo, *supra* note 21.
53. See *Adaptation Gap Report 2020*, *supra* note 21, at xiv.
54. See Carty et al., Oxfam, *supra* note 20, at 17-18 (estimating adaptation finance at approximately USD 15 billion).
55. See CSO Equity Review, *Can Climate Change Fuelled Loss and Damage Ever Be Fair?* 5-6 (2019), <http://civilsocietyreview.org/report2019>.
56. See, e.g., Climate Fair Shares, <http://www.climatefairshares.org/> (providing information on how much countries need to provide or receive in climate finance); CSO Equity Review, *After Paris: Inequality, Fair Shares, and the Climate Emergency* (2018), <http://civilsocietyreview.org/report2018>; The US Climate Fair Share, <https://usfairshare.org/> (explaining that the U.S. fair share includes providing finance and support to developing countries to help them reduce their emissions as well as to reduce emissions domestically); Tara Daniel, Women’s Environment & Development Organization (WEDO), *Feminist Climate Finance Brief: Recommendations for Canada’s Climate Finance Pledge 3* (Sept. 1, 2020), <https://wedo.org/feminist-climate-finance-brief-recommendations-for-canadas-climate-finance-pledge/> (noting that “Canada’s fair share of international climate finance requires mobilizing at least \$4 billion USD per year”); see also Jacob Waslander & Niranjali Manel Amerasinghe, *How Much Should Countries Contribute to the Green Climate Fund’s Replenishment?* (Apr. 3, 2019), <https://www.wri.org/blog/2019/04/how-much-should-countries-contribute-green-climate-funds-replenishment> (explaining methodologies and providing a calculator for contributions to the GCF, which is a small part of the climate finance obligations of developed countries).
57. See, e.g., Brian Tomlinson, *The Reality of Canada’s International Climate Finance, 2019* 37 (Sept. 2019) (prepared for The Canadian Coalition on Climate Change and Development and discussing Canada’s calculation of its fair share).
58. See generally Carty et al., Oxfam, *supra* note 20 (finding that developed countries’ own reporting of their bilateral climate finance flows may overstate their allocations by as much as one third; that climate finance adds to the debt burden, because grants and concessional loans make up less than half of climate finance; and that there is a persistent gap in financing for adaptation, particularly in those countries least responsible for climate change, but most vulnerable to its adverse impact, like low-lying island States).
59. See Hartle, CARE Denmark & CARE Netherlands, *supra* note 20, at 5-27, 36-37 (finding, including based on case studies, that adaptation finance is vastly overstated and significantly lower (USD 9.7 billion) than suggested in international reports such as the OECD’s most recent report, which puts the figure at USD 16.8 billion).
60. Carty, Oxfam, *supra* note 20, at 22.
61. On Article 6 of the Paris Agreement, see generally CIEL, *Rights, Carbon, Caution: Upholding Human Rights under Article 6 of the Paris Agreement* (2021), <https://www.ciel.org/wp-content/uploads/2021/02/Rights-Carbon-Caution.pdf>.
62. See generally OECD, *Climate Finance Provided and Mobilised by Developed Countries in 2013-18*, *supra* note 19; Carty et al., Oxfam, *supra* note 20 (estimating that climate finance provided in 2017-2018 was \$59.5 billion).
63. See, e.g., *Summary for Policymakers*, in IPCC Special Report on 1.5°C, *supra* note 3, at paras. D.5.1-D.5.2; Kulthoum Omari-Motsumi, Mandy Barnett & Liane Schalatek, *Broken Connections and Systemic Barriers: Overcoming the Challenge of the “Missing Middle” in Adaptation Finance* (2019), <https://us.boell.org/en/2020/01/10/broken-connections-and-systemic-barriers-overcoming-challenge-missing-middle-adaptation>; Virginia Scardamaglia, *Funding Challenges of Climate Change Adapting in Latin America and the Caribbean* (2019); A.S.M Marjan Nur, *Climate Finance: failing to serve the most vulnerable?*, Climate Home News (Feb. 21, 2020), <https://www.climatechangenews.com/2020/02/21/climate-finance-failing-serve-vulnerable/>.
64. See, e.g., Luis H. Zamarioli, Pieter Pauw & Christine Grüning, *Country Ownership as the Means for Paradigm Shift: The Case of the Green Climate Fund*, 12(14) Sustainability 5714 (2020), <https://www.mdpi.com/2071-1050/12/14/5714>; Marek Soanes et al., *Delivering real change: Getting international climate finance to the local level* (Mar. 2017), <https://pubs.iied.org/10178IIED>.
65. See, e.g., Zak Derler & Adaptation Fund, *Direct Access: Accelerating the flow of climate funds*, Climate Home News (Feb. 19, 2020), <https://www.climatechangenews.com/2020/02/19/direct-access-accelerating-flow-climate-funds/>; Adaptation Fund, Direct Access, <https://www.adaptation-fund.org/about/direct-access/> (last visited Jan. 30, 2021); Green Climate Fund, Enhancing Direct Access, <https://www.greenclimate.fund/eda> (the GCF has an “Enhanced Direct Access” pilot program designed to have more local access); Khan, *supra* note 32, at para. 164 (calling for finance to “be made directly accessible to local communities through enhanced direct access approaches, such as the ones piloted by the GCF and the Adaptation Fund in supporting local small and micro-grant facilities.”).
66. See Daniel, WEDO, *supra* note 56, at 11-12; Soanes et al., *supra* note 64, at 29-33.
67. Soanes et al., *supra* note 64, at 14.
68. See Daniel, WEDO, *supra* note 56, at 11-15.
69. See Daniel, WEDO, *supra* note 56, at 17; Soanes et al., *supra* note 64, at 27; Adaptation Fund, Innovation Facility, <https://www.adaptation-fund.org/apply-funding/innovation-grants/> (last visited Mar. 5, 2021).
70. See Soanes et al., *supra* note 64, at 27-28; Daniel, WEDO, *supra* note 56, at 21-23.
71. See, e.g., Carty et al., Oxfam, *supra* note 20, at 15 (noting that providing climate finance predominantly through loans or other non-grant instruments risks exacerbating debt burdens of developing countries).
72. See Khan, *supra* note 32, at para. 57; see also Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the combined third to fifth periodic reports of Mozambique, CEDAW/C/MOZ/CO/3-5, para. 44(a) (July 30, 2019) (including the recommendation to consider the impact of debt on

- women's rights); CIEL & GI-ESCR, *States' Human Rights Obligations in the Context of Climate Change: 2020 Update*, *supra* note 27, at 20.
73. See Megan Rowling, *Hit by COVID and climate change, island states battle debt crisis*, Reuters (Sept. 14, 2020), <https://www.reuters.com/article/us-climate-change-islands-covid-trfn/hit-by-covid-and-climate-change-island-states-battle-debt-crisis-idUSKBN265327>.
 74. See David R. Boyd (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable development), *Right to a healthy environment: good practices*, para. 70, U.N. Doc. A/HRC/43/53 (Dec. 30, 2019); Khan, *supra* note 32, at para. 57; Carty et al., Oxfam, *supra* note 20, at 3 (stating that "the use of loans and the provision of non-concessional finance in the name of climate assistance is an overlooked scandal."); Hattler, CARE Denmark & CARE Netherlands, *supra* note 20, at 39 (noting that adaptation finance should not be provided in ways that exacerbate debt distress).
 75. See generally Ulrich Volz et al., *Debt Relief for a Green and Inclusive Recovery: A Proposal* 14 (Nov. 2020), <https://drgr.org/2020/11/16/report-debt-relief-for-a-green-and-inclusive-recovery/>; Romina Picolotti & Alan Miller, *Debt-for-Climate Swaps Can Help Countries Make a Green Recovery*, IISD (Nov. 13, 2020), <https://www.iisd.org/sustainable-recovery/debt-for-climate-swaps-can-help-developing-countries-make-a-green-recovery/> (noting that total debt prior to the COVID-19 pandemic was \$253 trillion).
 76. See, e.g., Volz et al., *supra* note 75; Andrea Shalal, *World Bank, IMF to consider climate change in debt reduction talks*, Reuters (Feb. 19, 2021), <https://www.reuters.com/article/world-bank-debt-climate-idUSL1N2KQ00A>; Picolotti & Miller, *supra* note 75.
 77. See, e.g., Volz et al., *supra* note 75, at 20-39; Picolotti & Miller, *supra* note 75. But see Vikram Widge, *Opinion: Debt-for-climate swaps – are they really a good idea, and what are the challenges?*, Devex (Jan. 5, 2021) (noting the challenges of such swaps including the ability of countries to achieve the desired outcomes).
 78. See cf. Nicole Hassoun, *The Problem of Debt-For-Nature Swaps from a Human Rights Perspective*, 29(4) J. of Applied Philosophy 359, 365-67 (Nov. 2012) (noting that debt-for-nature swaps led to infringements on human rights including related to displacement, land rights, and harming people's ability to meet their needs, for example for food).
 79. See Reyes, *supra* note 6, at 126 (noting that "The European Investment Bank energy lending policy and the Ireland Strategic Investment Fund's fossil fuel exclusion list provide good real world models of how to eliminate fossil fuel finance. A Climate Damages Tax on fossil fuel extraction could be a starting point for reparations for 'loss and damage.'"); European Investment Bank (EIB), *Energy Lending Policy* (Nov. 15, 2019), <https://www.eib.org/en/publications/eib-energy-lending-policy#> (stating that EIB will phase out lending and support to fossil fuel projects); Jillian Ambrose & Jon Henley, *European Investment Bank to phase out fossil fuel financing*, The Guardian (Nov. 15, 2019) (noting that while this is a significant milestone, campaigners have pointed out that loopholes could allow European countries to be locked-in to fossil fuels beyond the 2021 phase out date); Ireland Strategic Investment Fund, *Fossil Fuel Exclusion List*, November 2020 (Nov. 2020) <https://isif.ie/uploads/publications/FF-list-Nov-2020-Headed-Paper.pdf> (providing a list of fossil fuel companies with which the Ireland Strategic Investment Fund will not do business).
 80. See Bridget R. Deemer et al., *Greenhouse Gas Emissions from Reservoir Water Surfaces: A New Global Synthesis*, 66(11) BioScience 949 (Nov. 2016), <https://doi.org/10.1093/biosci/biw117>; see also Guardian development network, *Hydroelectric dams emit a billion tonnes of greenhouse gases a year, study finds*, The Guardian (Nov. 14, 2016), <https://www.theguardian.com/global-development/2016/nov/14/hydroelectric-dams-emit-billion-tonnes-greenhouse-gas-methane-study-climate-change>; Interamerican Association for Environmental Defense (AIDA), *Dam no more: The truth about large dams*, <https://aida-americas.org/en/dam-no-more-truth-about-large-dams> (last visited Feb. 5, 2021); Samantha Stahl, *Dams + Climate Change = Bad News*, Earth Law Center (Dec. 12, 2017), <https://www.earthlawcenter.org/blog-entries/2017/12/dams-climate-change-bad-news>.
 81. See, e.g., Kate Fried, *Powering Human Rights Violations*, Earthrights International (Mar. 22, 2020), <https://earthrights.org/blog/powering-human-rights-violations/>; Anne-Sophie Garrigou, *Dams: the human and environmental impacts*, The Beam (July 19, 2018), <https://medium.com/thebeammagazine/dams-the-human-and-environmental-impacts-e277d7e91459>; Maira Irigaray Castro, *The Unseen Truth: Mega-dams an Human Rights*, Amazon Watch (Oct. 7, 2015), <https://amazonwatch.org/news/2015/1007-the-unseen-truth-mega-dams-and-human-rights>; Countercurrent, *New Report on human rights violations by dams in Turkey*, BankTrack (Mar. 14, 2011), https://www.banktrack.org/article/new_report_on_human_rights_violations_by_dams_in_turkey (discussing the parallel report to the Committee on Economic, Social and Cultural Rights detailing harms caused by dams in Turkey); Pete S. Michaels & Steven F. Napolitano, *The Hidden Costs of Hydroelectric Dams*, 12-1 Cultural Quarterly Magazine (June 1988), <https://www.culturalsurvival.org/publications/cultural-survival-quarterly/hidden-costs-hydroelectric-dams>.
 82. Shone Satheesh, *Hundreds of India villages under water as Narmada dam level rises*, Al Jazeera (Sept. 23, 2019), <https://www.aljazeera.com/news/2019/9/23/hundreds-of-india-villages-under-water-as-narmada-dam-level-rises>; Camilo Mejia Giraldo, *Panama's Barro Blanco dam to begin operation, indigenous pleas refused*, Mongabay (Mar. 24, 2017), <https://news.mongabay.com/2017/03/panamas-barro-blanco-dam-to-begin-operation-indigenous-pleas-refused/>.
 83. CEDAW General Recommendation No. 37, *supra* note 27, at para. 70.
 84. See Global Forest Coalition, *The impacts of tree plantations on women & women-led resistance to monocultures*, 62 Forest Cover (Sept. 2020), <https://globalforestcoalition.org/forest-cover-62/>; Kate Dooley et al., *Missing Pathways to 1.5°C: The role of the land sector in ambitious climate action* 31-32 (2018), <https://www.climateandambitionright-salliance.org/report>; Sofia Monsalve Suarez (FIAN) & Maria Silvia Emanuelli (HIC-AL), *Monocultures and Human Rights* 14-16 (2015), https://www.fian.org/fileadmin/media/publications_2015/2009_06_Monocultures_and_HumanRights.pdf (detailing typical human rights abuses including forced evictions, impacts on food sovereignty, discrimination against Indigenous Peoples and women, and destruction of biodiversity, among others).
 85. See Dooley et al., *supra* note 84, at 7, 20, 31-32.
 86. See *Climate crisis is greatest ever threat to human rights*, UN warns, *supra* note 2; Joint Statement of Special Procedures Mandate Holders, *supra* note 1.
 87. Paris Agreement, *supra* note 7, at art. 2.1(a)(c). Additionally, this would be inconsistent with the objective of the UNFCCC to "prevent dangerous anthropogenic interference with the climate system." UNFCCC, *supra* note 7, at art. 2.
 88. See generally Lorne Stockman, Oil Change International, *Burning the Gas 'Bridge Fuel' Myth: Why Gas Is Not Clean, Cheap, or Necessary* (May 2019), <http://priceofoil.org/2019/05/30/gas-is-not-a-bridge-fuel/>; SEI, IISD, ODI, E3G & UNEP, *The Production Gap Report: 2020 Special Report* 4, 7 (2020), <http://productiongap.org/2020report> (noting that "[b]etween 2020 and 2030 global coal, oil, and gas production would have to decline annually by 11%, 4%, and 3% respectively, to be consistent with a 1.5°C pathway" and that recovery packages should avoid carbon lock-in); *Summary for Policymakers*, in IPCC Special Report on 1.5°C, *supra* note 3, at 16 (estimating that in the P1 scenario, which takes a precautionary approach to negative emissions technologies that primary energy from coal, oil, and gas need to reduce by 78%, 37%, and 25% in 2030, respectively); Sustainable Energy for All & Climate Policy Initiative, *Energizing Finance: Understanding the Landscape 2020* 9-10 (Nov. 2020), available at <https://www.seforall.org/publications/energizing-finance-understanding-the-landscape-2020> (finding that closing the energy access gap should not be done through the financing of fossil fuels); Carty, Oxfam, *supra* note 20, at 7 (explaining that "efficient" coal power" should not be counted as climate finance given that fossil fuels contribute to climate change).
 89. See generally Annalisa Savaresi & Marisa McVey, *Human Rights Abuses by Fossil Fuel Companies* (Feb. 7, 2020), available at <https://350.org/press-release/climate-crisis-is-aggravating-human-rights-violations-caused-by-the-fossil-fuel-industry-alerts-350-org-report/>.
 90. See Rashmi Patowary, *Scrutinizing the Impact of GMOs Through the Prism of Human Rights*, 7(6) OIDA Int'l J. of Sust. Dev. 79 (2014).
 91. See UN Food and Agriculture Organization, *GMOs and human rights*, <http://www.fao.org/3/x9602e/x9602e03.htm> (last visited Feb. 8, 2021).
 92. See generally Casandia Bellevue, *GMOs, International Law and Indigenous Peoples*, 30 Pace Int'l L. Rev. 1 (2017), available at <https://digitalcommons.pace.edu/pilr/vol30/iss1/1/>; Liz Orton, ActionAid, *GM Crops – going against the grain* (May 2003), https://reliefweb.int/sites/reliefweb.int/files/resources/D22F6C3E37D8984FC1256FC0005AACF8-ActionAid_GM_crops_May_2003.pdf.
 93. See María León-Moreta, *Biofuels – A Threat to the Environment and Human Rights? An Analysis of the impact of the production of feedstock for agrofuels on the rights to water, land and food*, 4(1) Eur. J. of Legal

- Stud. 102-20 (2011), <https://cadmus.eui.eu/handle/1814/18600>; Jessica Aldred, *Biofuel demand leading to human rights abuses, report claims*, The Guardian (Feb. 11, 2008), <https://www.theguardian.com/environment/2008/feb/11/biofuels.energy>.
94. See generally World Health Organization, *Household air pollution and health* (May 8, 2018), <https://www.who.int/news-room/fact-sheets/detail/household-air-pollution-and-health>.
 95. See generally Center for International Environmental Law (CIEL), *Fuel to the Fire: How Geoengineering Threatens to Entrench Fossil Fuels and Accelerate the Climate Crisis* (2019), <https://www.ciel.org/reports/fuel-to-the-fire-how-geoengineering-threatens-to-entrench-fossil-fuels-and-accelerate-the-climate-crisis-feb-2019/>.
 96. See June Sekera & Andreas Lichtenberger, *Assessing Carbon Capture: Public Policy, Science, and Societal Need*, *Biophys Econ Sust.* 5:14, at 18-20 (2020), <https://doi.org/10.1007/s41247-020-00080-5> (noting the massive infrastructure that would be required to deploy CCS at scale and the lack of scientific literature on the resource implications, biophysical impacts or other environmental and health risks); Richard Doctor & Andrew Palmer, *Chapter 4: Transport of CO₂ in IPCC Special Report on Carbon Dioxide Capture and Storage*, 181, 188 (2005), https://www.ipcc.ch/site/assets/uploads/2018/03/srccs_chapter4-1.pdf (noting that extensive deployment of CCS will “require a large network of pipelines” and that “carbon dioxide leaking from a pipeline forms a potential physiological hazard for humans and animals”); John Fogarty & Michael McCally, *Health and Safety Risks of Carbon Capture and Storage*, 303(1) *JAMA* 67-68 (2010), <https://jamanetwork.com/journals/jama/article-abstract/185135>.
 97. See, e.g., IPCC, *Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems* 67 (P.R. Shukla et al., eds., 2019), <https://www.ipcc.ch/site/assets/uploads/2019/11/SRCL-Full-Report-Compiled-191128.pdf> (stating “Adverse side-effects on food security, ecosystem services and water security increase with the scale of BECCS deployment.”); Mathilde Fajardy et al., *BECCS deployment: A reality check* (Grantham Institute Briefing Paper No. 28, Jan. 2019), <https://www.imperial.ac.uk/grantham/publications/energy-and-low-carbon-futures/beccs-deployment-a-reality-check.php>; Jay Fuhrman et al., *Food-energy-water implications of negative emissions technologies in a +1.5C future*, 10 *Nature Climate Change* 920 (Oct. 2020), <https://www.nature.com/articles/s41558-020-0876-z>.
 98. See UNFCCC Conference of the Parties, Decision 3/CP.17, para. 2, Annex, FCCC/CP/2011/9/Add.1 (Mar. 15, 2012) (adopting the GCF governing instrument, which includes reference to the GCF taking a gender-sensitive approach, adopting environmental and social safeguards, and creating an independent accountability mechanism); Cancun Agreements, *supra* note 13, at Appendix III, para. 1(h) (including environmental and social safeguards in the Terms of reference for the GCF).
 99. The Adaptation Fund adopted its own environmental and social policy in 2013 and subsequently amended it in 2016. See Adaptation Fund, Environmental and Social Policy (Mar. 2016), https://www.adaptation-fund.org/wp-content/uploads/2013/11/Amended-March-2016_-OPG-ANNEX-3-Environmental-social-policy-March-2016.pdf [hereinafter Adaptation Fund, Environmental and Social Policy]. The GEF first adopted environmental and social safeguards in 2011 and have subsequently reviewed and updated them. See Global Environment Facility, Policy on Environmental and Social Safeguards (July 1, 2019), <https://www.thegef.org/documents/environmental-and-social-safeguard-standards> [hereinafter GEF Policy on Environmental and Social Safeguards].
 100. See, e.g., World Bank Inspection Panel, *Emerging Lessons Series No. 3: Environmental Assessment* (Apr. 2017), <https://www.inspection-panel.org/sites/www.inspectionpanel.org/files/publications/Emerging%20Lessons%20Series%20No.%203%20-%20Environmental%20Assessment.pdf> (providing lessons learned based on the complaints that it has received over the years related to harms suffered by communities including due to poor environmental assessments).
 101. See Khan, *supra* note 32, at para. 42.
 102. See generally Coalition for Human Rights in Development, *Human Rights Due Diligence Toolkit*, <https://rightsindevelopment.org/human-rights-due-diligence-project/human-rights-due-diligence-toolkit/> (including the Human Rights Risk Analysis (HuRRA) tool, which can help project developers analyze human rights risks of proposed projects; Danish Institute for Human Rights, *Human Rights Impact Assessment guidance and toolbox*, <https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox>; Scottish Human Rights Commission, *Equality & Human Rights Impact Assessment*, <http://eqhria.scottishhumanrights.com/>).
 103. See generally Green Climate Fund, *Safeguards*, <https://www.greenclimate.fund/projects/safeguards> (discussing its Environmental and Social Management System, Environmental and Social Policy, and Indigenous Peoples Policy); Green Climate Fund, *Gender*, <https://www.greenclimate.fund/projects/gender>.
 104. Adaptation Fund, Environmental and Social Policy, *supra* note 99.
 105. Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 15 (stating “Projects/programmes supported by the Fund shall respect and where applicable promote international human rights.”).
 106. Green Climate Fund, Environmental and Social Policy, para. 8(q) (2018), <https://www.greenclimate.fund/document/environmental-and-social-policy> [hereinafter GCF, Environmental and Social Policy].
 107. Khan, *supra* note 32, at para. 164.
 108. See, e.g., GCF, Environmental and Social Policy, *supra* note 106, at para. 8(e) (stating that “all activities financed by GCF will require that, where they are unavoidable, adverse impacts do not fall disproportionately on vulnerable and marginalised groups and individuals that are affected or potentially affected by GCF-financed activities, and avoid prejudice and discrimination in providing access to development resources and benefits.”); Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 13 (stating that “Projects/programmes supported by the Fund shall provide fair and equitable access to benefits in a manner that is inclusive and does not impede access to basic health services, clean water and sanitation, energy, education, housing, safe and decent working conditions, and land rights. Projects/programmes should not exacerbate existing inequities, particularly with respect to marginalized or vulnerable groups.”).
 109. See, e.g., Liane Schalatek, *Gender and Climate Finance* (Nov. 2018), <https://climatefundsupdate.org/publications/gender-and-climate-finance/>; Khan, *supra* note 32, at para. 174-78 (setting forth the elements that will help funds be “truly gender-responsive”); CEDAW General Recommendation No. 37, *supra* note 27, at para. 46(e) (recommending that States parties should “Integrate gender dimensions within relevant international, regional, national, sectoral and local programmes and projects, including those financed with international climate and sustainable development funds”); Green Climate Fund, *Governing Instrument for the Green Climate Fund*, para. 3 (2011) (noting the GCF will take “a gender-sensitive approach”); Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 16 (“Projects/programmes supported by the Fund shall be designed and implemented in such a way that both women and men ... (c) do not suffer disproportionate adverse effects during the development process.”).
 110. See Liane Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10 4* (Nov. 2020), <https://us.boell.org/sites/default/files/2020-12/CFF10%20-%20Gender%20and%20Climate%20Finance%20-%20ENG%202020%20-%20Digital.pdf> [hereinafter Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10*].
 111. See Sustainable Development Goal 5, <https://sustainabledevelopment.un.org/sdg5>.
 112. See generally CEDAW General Recommendation No. 37, *supra* note 27, at paras. 2-3 (noting that “Women, girls, men and boys are affected differently by climate change and disasters, with many women and girls experiencing greater risks, burdens and impacts. Situations of crisis exacerbate pre-existing gender inequalities and compound the intersecting forms of discrimination against, among others, women living in poverty, indigenous women, women belonging to ethnic, racial, religious and sexual minority groups, women with disabilities, refugee and asylum-seeking women, internally displaced, stateless and migrant women, rural women, unmarried women, adolescents and older women, who are often disproportionately affected compared with men or other women. In many contexts, gender inequalities limit the control that women and girls have over decisions governing their lives, as well as their access to resources such as food, water, agricultural input, land, credit, energy, technology, education, health services, adequate housing, social protection and employment. As a result of those inequalities, women and girls are more likely to be exposed to disaster-induced risks and losses relating to their livelihoods, and they are less able to adapt to changes in climatic conditions.”).
 113. See Women and Gender Constituency, *Gender Just Climate Solutions* (2019), <https://wedo.org/gender-just-climate-solutions-2019/> (providing examples of best practice); Schalatek, *Gender and Climate Fi-*

- nance: *Climate Finance Fundamentals 10*, *supra* note 110, at 1-2 (highlighting ways in which women are already engaging in ways to adapt to climate); *see also* Daniel, WEDO, *supra* note 56, at 17-18 (discussing the need to fund gender just solutions including through small grant funding).
114. *See* Daniel, WEDO, *supra* note 56, at 21-23.
 115. *See* Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10*, *supra* note 110, at 3-4.
 116. *See* Daniel, WEDO, *supra* note 56, at 6-7; Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10*, *supra* note 110, at 3.
 117. *See, e.g.*, Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 16 (stating that “Projects/programmes supported by the Fund shall be designed and implemented in such a way that both women and men (a) have equal opportunities to participate as per the Fund gender policy”); GCF, Environmental and Social Policy, *supra* note 106, at para. 8(i) (“GCF will contribute to gender equality and inclusiveness by ensuring that the methods and tools to promote gender equality and reduce gender disparities in climate actions are established and implemented.”); Khan, *supra* note 32, at para. 176.
 118. Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10*, *supra* note 110, at 3.
 119. *See, e.g.*, GCF, Environmental and Social Policy, *supra* note 106, at para. 8(i) (“GCF will require accredited entities to adequately assess the gender risks and impacts (as part of social risks and impacts assessments), and link the corresponding gender risk management measures to the activity-level gender action plans.”); Khan, *supra* note 32, at para. 177.
 120. *See, e.g.*, Khan, *supra* note 32, at para. 175.
 121. *See, e.g.*, Khan, *supra* note 32, at para. 175; Stephen Mutimba, *Participatory Monitoring and Evaluation in the Green Climate Fund – And How Civil Society Can Engage: Briefing Paper 5* (June 2020), <https://germanwatch.org/en/16582>.
 122. Schalatek, *Gender and Climate Finance: Climate Finance Fundamentals 10*, *supra* note 110, at 4.
 123. *See, e.g.*, Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 16 (stating that “Projects/programmes supported by the Fund shall be designed and implemented in such a way that both women and men ... (b) receive comparable social and economic benefits.”).
 124. *See* Rio Declaration, *supra* note 9, at principle 22; G.A. Res. 69/2, Outcome Document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, U.N. Doc. A/Res/69/2, at para. 36 (Sept. 22, 2014); *see also* CIEL, *Rights in a Changing Climate: Human Rights Under the UN Framework Convention on Climate Change*, *supra* note 39, at 18-19.
 125. *See* G.A. Res. 61/295, United Nations Declaration on the Rights of Indigenous Peoples, arts. 1, 3, 23, 26, 32 (Sept. 13, 2007) [hereinafter UNDRIP].
 126. *See* UNDRIP, *supra* note 125.
 127. GCF, Environmental and Social Policy, *supra* note 106, at para. 8(p).
 128. Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 18.
 129. *See* Global Environment Facility (GEF), Principles and Guidelines for Engagement with Indigenous Peoples, p. 20 (Oct. 2012), *available at* <https://www.thegef.org/topics/indigenous-peoples>.
 130. Green Climate Fund, Indigenous Peoples Policy (2018), <https://www.greenclimate.fund/document/indigenous-peoples-policy> [hereinafter GCF, Indigenous Peoples Policy].
 131. GCF, Environmental and Social Policy, *supra* note 106, at para. 8(p).
 132. *See, e.g.*, GCF, Indigenous Peoples Policy, *supra* note 130, at para. 22(e) (including in its principles: “**Respect and recognize traditional knowledge and livelihood systems.** GCF recognizes, respects and values indigenous peoples’ cultural heritage as well as traditional knowledge held by indigenous peoples and the indigenous ways of ownership and knowledge transmission, and will promote the participation and leadership of traditional knowledge holders in GCF-financed activities”).
 133. GCF, Environmental and Social Policy, *supra* note 106, at para. 8(p).
 134. GCF, Indigenous Peoples Policy, *supra* note 130, at paras. 81-82.
 135. *See* Climate Investment Funds, Dedicated Grant Mechanism, <https://www.climateinvestmentfunds.org/dedicated-grant-mechanism> (noting that the Forest Investment Program has established an \$80 million Dedicated Grant Mechanism for Indigenous Peoples and local communities) (last visited Jan. 30, 2021).
 136. *See* UN-REDD Programme, How We Work, <https://www.un-redd.org/how-we-work> (last visited Jan. 30, 2021).
 137. *See* Human Rights Council (HRC), Res. 37/17 Cultural rights and the protection of cultural heritage, U.N. Doc. A/HRC/RES/37/17 (Apr. 9, 2018) (“Noting that the destruction of or damage to cultural heritage may have a detrimental and irreversible impact on the enjoyment of cultural rights, in particular the right of everyone to take part in cultural life”); *see also* Human Rights Council (HRC), Res. 33/20 Cultural rights and the protection of cultural heritage, U.N. Doc. A/HRC/33/20 (Oct. 6, 2016).
 138. Convention Concerning the Protection of the World Cultural and Natural Heritage, 11 I.L.M. 1358 (Nov. 16, 1972); Convention for the Safeguarding of the Intangible Cultural Heritage (Oct. 17, 2003).
 139. Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 25 (stating that “Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids the alteration, damage, or removal of any physical cultural resources, cultural sites, and sites with unique natural values recognized as such at the community, national or international level. Projects/programmes should also not permanently interfere with existing access and use of such physical and cultural resources.”); United Nations Development Programme (UNDP), Social and Environmental Standards, Standard 4, para. 2, fn. 55 (2014) (recognizing that “Cultural Heritage sites may be unknown and not visible.”).
 140. *See, e.g.*, UNDP, Social and Environmental Standards, *supra* note 139, at Standard 4, para. 9 (stating “**Use of Cultural Heritage:** Where a Project proposes to utilize Cultural Heritage, including the knowledge, innovations, or practices of local communities, affected communities will be informed of their rights under Applicable Law, the scope and nature of the proposed development, and the potential consequences of such development. The Project will not proceed without meaningful, effective participation of affected communities and unless (i) good faith negotiations with affected communities result in a documented outcome.”); *see also* GCF, Indigenous Peoples Policy, *supra* note 130, at para. 64.
 141. *See, e.g.*, UNDP Social and Environmental Standards, *supra* note 139, at Standard 4, para. 9 (stating “**Use of Cultural Heritage:** Where a Project proposes to utilize Cultural Heritage, including the knowledge, innovations, or practices of local communities, affected communities will be informed of their rights under Applicable Law, the scope and nature of the proposed development, and the potential consequences of such development. The Project will not proceed ... unless ... (ii) the Project provides for fair and equitable sharing of benefits from any commercialization of such knowledge, innovation, or practice, consistent with the affected community’s customs and traditions. For Projects that propose to utilize Cultural Heritage of indigenous peoples, the requirements of Standard 6: Indigenous Peoples apply.”); *see also* GCF, Indigenous Peoples Policy, *supra* note 130, at para. 64.
 142. *See, e.g.*, GCF, Indigenous Peoples Policy, *supra* note 130, at para. 63 (setting out numerous potential types of cultural heritage that may be impacted as well as specifying that FPIC is required).
 143. *See, e.g.*, GCF, Indigenous Peoples Policy, *supra* note 130, at para. 64 (stating “Where the activities proposed for GCF financing propose to use the cultural heritage of indigenous peoples for commercial purposes, the accredited entities will inform the affected indigenous peoples in an accessible local language(s), a culturally-appropriate manner, and through a means that ensures understanding of the affected indigenous peoples of (a) their rights under applicable law and obligations of the state directly applicable to the activities under relevant international treaties and agreements; (b) the scope and nature of the proposed commercial development and use; and (c) the potential consequences of such development and use; and that (d) seeks and obtains their free, prior and informed consent. The accredited entities will ensure that the indigenous peoples share equitably in the access to benefits derived from the commercial development of such cultural heritage, consistent with the customs and traditions of the indigenous peoples.”).
 144. *See, e.g.*, Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 19 (noting that projects and programmes “shall be designed and implemented in a way that avoids or minimizes the need for involuntary resettlement”).
 145. *See, e.g.*, UNDP, Social and Environmental Standards, *supra* note 139, at Standard 5, paras. 8, 9 (laying out requirements for resettlement action plans); GCF, Environmental and Social Policy, *supra* note 106, at para. 46 (specifying that “When limited involuntary resettlement cannot be avoided, GCF will require through informed consultations and participation of the people or communities affected by the activities, the preparation of a resettlement action plan”); Adaptation Fund, Environmental and Social Policy, *supra* note 99, at

- para. 19 (noting that if resettlement cannot be avoided “due process should be observed so that displaced persons shall be informed of their rights, consulted on their options, and offered technically, economically, and socially feasible resettlement alternatives or fair and adequate compensation.”).
146. See Khan, *supra* note 32, at para. 181.
 147. See, e.g., Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 14 (stating “Projects/programmes supported by the Fund shall avoid imposing any disproportionate adverse impacts on marginalized and vulnerable groups including children, women and girls, the elderly, indigenous peoples, tribal groups, displaced people, refugees, people living with disabilities, and people living with HIV/AIDS. In screening any proposed project/programme, implementing entities shall assess and consider particular impacts on marginalized and vulnerable groups.”).
 148. See Convention on the Rights of the Child, *supra* note 22, at art. 28.
 149. See Convention on the Rights of Persons with Disabilities, U.N. Doc. A/RES/61/106 (Jan. 24, 2007).
 150. See Convention on the Rights of the Child, *supra* note 22.
 151. See Convention on the Rights of Persons with Disabilities, *supra* note 149.
 152. See, e.g., Adaptation Fund, Environmental and Social Policy, *supra* note 99, at paras. 13, 24 (stating in paragraph 24 that “Projects/programmes supported by the Fund shall be designed and implemented in a way that avoids potentially significant negative impacts on public health.”).
 153. See International Labour Organization, Conventions and Recommendations, <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/language/index.htm> (providing the eight fundamental Conventions including Freedom of Association and Protection of the Right to Organise Convention; Right to Organise and Collective Bargaining Convention; Forced Labour Convention; Abolition of Forced Labour Convention; Minimum Age Convention, Worst Forms of Child Labour Convention; Equal Remuneration Convention; and Discrimination (Employment and Occupation Convention); see also Khan, *supra* note 32, at para. 161.
 154. Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 17.
 155. See, e.g., Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 21.
 156. See, e.g., GCF, Environmental and Social Policy, *supra* note 106, at para. 8(r).
 157. See, e.g., Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 20 (stating that it “shall not support projects/programmes that would involve unjustified conversion or degradation of critical natural habitats, including those that are (a) legally protected; (b) officially proposed for protection; (c) recognized by authoritative sources for their high conservation value, including as critical habitat; or (d) recognized as protected by traditional or indigenous local communities.”); GEF, Policy on Environmental and Social Safeguards, *supra* note 99, at Minimum Standards for Agency Policies, Systems and Capabilities, para. 7(a).
 158. GCF, Environmental and Social Policy, *supra* note 106, at para. 8(r) (stating “All GCF-financed activities will be designed and implemented in a manner that will ... ensure environmental flows of water”); David R. Boyd (Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable development), *Human Rights and the global water crisis: water pollution, water scarcity and water related disasters*, paras. 53, 54(e), 89, U.N. Doc. A/HRC/46/28 (Jan. 19, 2021) (noting, among other things, the importance of guaranteeing “environmental flows for rivers and wetlands, ensuring that the quantity, timing and quality of freshwater flows are sufficient to sustain healthy aquatic ecosystems and the human livelihoods and well-being that depend on them” in para. 89(o)).
 159. See, e.g., GCF, Environmental and Social Policy, *supra* note 106, at para. 8(b) (including in the guiding principles the importance of considering potential transboundary environmental risks).
 160. GEF, Policy on Environmental and Social Safeguards, *supra* note 99, at Minimum Standards for Agency Policies, Systems and Capabilities, para. 7(b).
 161. Convention on Biological Diversity, June 5, 1992, 1760 U.N.T.S. 79; Cartagena Protocol on Biosafety to the Convention on Biological Diversity, Jan. 29, 2000, 39 I.L.M. 1027; Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention of Biological Diversity, Oct. 29, 2010, UNEP/CBD/COP/DEC/X/1; Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), Mar. 3, 1973, 993 U.N.T.S. 243; Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention), Feb. 2, 1971, 11 I.L.M. 963.
 162. See generally Rio Declaration, *supra* note 9, at principle 2; Stockholm Declaration of the United Nations Conference on the Human Environment, 11 I.L.M. 1416, principle 21 (1972).
 163. See, e.g., Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 23 (stating that “Projects/programmes supported by the Fund shall be designed and implemented in a way that meets applicable international standards for maximizing energy efficiency and minimizing material resource use, the production of wastes, and the release of pollutants.”).
 164. See “Investing in Proven Mitigation and Adaptation Measures: Effective Climate Finance”, *infra*.
 165. Montreal Protocol on Substances that Deplete the Ozone Layer, Sept. 16, 1987, 1522 U.N.T.S. 3; Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal, Mar. 22, 1989, 1673 U.N.T.S. 57; Stockholm Convention on Persistent Organic Pollutants, May 22, 2001, 40 I.L.M. 532.
 166. See, e.g., Rio Declaration, *supra* note 9, at principle 10 (“Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available.”); Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, June 25, 1998, 2161 U.N.T.S. 447 [hereinafter Aarhus Convention]; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, *opened for signature* Sept. 27, 2018, C.N.195.2018, http://repositorio.cepal.org/bitstream/handle/11362/43583/1/S1800428_en.pdf [hereinafter Escazú Agreement]; UDHR, *supra* note 22, at arts. 19, 21; Int’l Covenant on Civil and Political Rights, art. 19, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]; UNDRIP, *supra* note 125, at art. 18; UNFCCC, *supra* note 7, at art. 6; Paris Agreement, *supra* note 7, at art. 12; United Nations Convention to Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa, pmbl., arts. 3(a), 5, 10(f), 17(f), 19, Oct. 14, 1994, 1954 U.N.T.S. 3; Convention on Biological Diversity, *supra* note 161, at pmbl., art. 13; Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), art. 9, Sept. 22, 1992, 2354 U.N.T.S. 67 (containing a provision only on access to information); Convention on Environmental Impact Assessment in a Transboundary Context, Feb. 25, 1991, 30 I.L.M. 800.
 167. See, e.g., Carbon Market Watch, *Practitioner’s Guide for Local Stakeholder Consultation* (2018); Jocelyn Medallo, *Earlier access to information will make development better: Here’s why*, Medium (Dec. 6, 2018), <https://accountability.medium.com/earlier-access-to-information-will-make-development-better-heres-why-fac48744de5>.
 168. See, e.g., Green Climate Fund, Information Disclosure Policy, para. 6(a)(b) (Mar. 2016), <https://www.greenclimate.fund/document/information-disclosure-policy> (emphasizing the importance of maximum disclosure with limited exceptions as the first two principles of the GCF policy); UNEP, Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters (2011) [hereinafter Bali Guidelines].
 169. See, e.g., GCF, Environmental and Social Policy, *supra* note 106, at paras. 61–66 (noting in paragraph 62 that information should be disclosed online as well as in “locations convenient to affected peoples” and in local languages to facilitate understanding); Jocelyn Soto Medallo & Ishita Petkar, *Not a Checkbox: The right to information as the foundation for development*, Medium, (July 15, 2020), <https://accountability.medium.com/not-a-checkbox-the-right-to-information-as-the-foundation-for-development-8e4ae1cf5fb8>.
 170. Two regional agreements have been adopted to elaborate on the rights to access to information as well as public participation. See Aarhus Convention, *supra* note 166; Escazú Agreement, *supra* note 166.
 171. See, e.g., Dooley et al., *supra* note 84; Joint Statement of Special Procedures Mandate Holders, *supra* note 1 (noting that “indigenous

- peoples knowledge may prove essential to curb the effects of climate change: their ancestral knowledge and leadership, which have maintained many of humanity's forests, biodiversity and other resources, must be preserved. It is therefore crucial indigenous peoples' rights be protected, including their right to freely and fully participate in shaping policy decisions, in particular regarding hydroelectric, wind or other projects which may be developed on their traditional homelands"); Intergovernmental Panel on Climate Change, *Summary for Policymakers, in Climate Change and Land: An IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems*, C.4 (A. Arneeth et al, eds., 2019), <https://www.ipcc.ch/report/srcl/> [hereinafter *Summary for Policymakers*, in IPCC Special Report on Climate Change and Land]; Joyashree Roy et al, *Sustainable Development, Poverty Eradication and Reducing Inequalities, in Global Warming of 1.5°C: An IPCC Special Report on the Impacts of Global Warming of 1.5°C Above Pre-Industrial Levels and Related Global Greenhouse Gas Emissions Pathways, in the Context of Strengthening the Global Response to the Threat of Climate Change, Sustainable Development, and Efforts to Eradicate Poverty* (V. Masson-Delmotte et al. eds., 2018).
172. Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 33; accord GCF, Environmental and Social Policy, *supra* note 106, at para. 69 (requiring that "meaningful consultation will be culturally appropriate, undertaken throughout the lifecycle of activities, with information provided and disclosed in a timely manner, in an understandable format, in appropriate local languages, gender inclusive and responsive, free from coercion, and will incorporate views of stakeholders in the decision-making process. The processes will pay particular attention to vulnerable groups and to conducting consultations in a manner that does not put vulnerable individuals and groups at risk.").
 173. See, e.g., Inter-American Development Bank, Environmental and Social Policy Framework, Environmental and Social Performance Standard 10, para. 21 (2019), available at <https://www.iadb.org/en/mpas> (stating that meaningful consultation will take place that give stakeholders opportunities to express their views "without the risk of reprisals").
 174. See, e.g., UN Special Rapporteur, *Safe Climate Report*, *supra* note 4, at para. 64(b); GCF, Environmental and Social Policy, *supra* note 106, at para. 67.
 175. See, e.g., Khan, *supra* note 32, at para. 167.
 176. See, e.g., Khan, *supra* note 32, at para. 167.
 177. See Adaptation Fund, Environmental and Social Policy, *supra* note 99, at para. 33.
 178. See, e.g., Khan, *supra* note 32, at para. 167.
 179. See UNDRIP, *supra* note 125, at arts. 10, 19, 32(2).
 180. See, e.g., Food and Agriculture Organization, *Free Prior and Informed Consent: An indigenous peoples' right and a good practice for local communities, Manual for Project Practitioners* (2016), <http://www.fao.org/3/a-i6190e.pdf>; Food and Agriculture Organization, "Respecting Free, Prior and Informed Consent: Practical Guidance for Governments, Companies, NGOs, Indigenous Peoples and Local Communities in Relation to Land Acquisition" (2014); Forest Peoples Programme, Resources on Free, Prior and Informed Consent (FPIC), <https://www.forestpeoples.org/en/lands-forests-territories-law-policy-global-finance-trade/training-tool/2017/resources-free-prior> (providing links to multiple resources on FPIC) (last visited on Jan. 30, 2021).
 181. See, e.g., United Nations Human Rights Office of the High Commissioner, Guiding Principles on Business and Human Rights, Implementing the United Nations "Protect, Respect and Remedy" (2011), https://www.ohchr.org/documents/publications/guidingprinciples-businessshr_en.pdf (setting forth effectiveness criteria for non-judicial grievance mechanisms); Caitlin Daniel, Kristen Genovese, Mariëtte van Huijstee & Sarah Singh (Eds.), *Glass Half Full? The State of Accountability in Development Finance* (Jan. 2016), available at glass-half-full.org (using and applying the effectiveness criteria set forth in the UN Guiding Principles to evaluate existing independent accountability mechanisms); Khan, *supra* note 32, at para. 193; Report of the United Nations High Commissioner for Human Rights, *Improving accountability and access to remedy for victims of human rights abuse through non-State-based grievance mechanisms*, U.N. Doc. A/HRC/44/32 (May 19, 2020), <https://undocs.org/A/HRC/44/32>.
 182. See generally Global Witness, *Defending Tomorrow: The climate crisis and threats against land and environmental defenders* (July 2020), <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow/>; Global Witness, *Enemies of the State? How governments and businesses silence land and environmental defenders* (July 2019), <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>; Article 19 & CIEL, *A Deadly Shade of Green - Threats to Environmental Human Rights Defenders in Latin America* (Aug. 2018), <https://www.ciel.org/reports/deadly-shade-green-threats-environmental-human-rights-defenders-latin-america/>; Report of the Special Rapporteur on the situation of human rights defenders, U.N. Doc. A/72/170 (July 19, 2017), <https://www.protecting-defenders.org/sites/protecting-defenders.org/files/N1722075.pdf>.
 183. Global Witness, *Defending Tomorrow: The climate crisis and threats against land and environmental defenders*, *supra* note 182, at 4-6.
 184. Global Witness, *Defending Tomorrow: The climate crisis and threats against land and environmental defenders*, *supra* note 182, at 7.
 185. See International Finance Corporation (IFC), IFC Position Statement on Retaliation Against Civil Society and Project Stakeholders (Oct. 2018), https://www.ifc.org/wps/wcm/connect/ade6a8c3-12a7-43c7-b34e-f73e5ad6a5c8/EN_IFC_Reprisals_Statement_201810.pdf?MOD=AJPERES; see also FMO, Human Rights Defenders Approach, <https://www.fmo.nl/stakeholder-engagement> (stating that "We do not tolerate any activity by our clients that amounts to the oppression of, violence towards, or any other violation of the human rights of those who voice their opinion in relation to FMO activities and the activities of our clients.").
 186. See, e.g., Global Witness, *Defending Tomorrow: The climate crisis and threats against land and environmental defenders*, *supra* note 182, at 37.
 187. See, e.g., Green Climate Fund, Policy on the Protection of Whistleblowers and Witnesses (2018), <https://www.greenclimate.fund/sites/default/files/document/policy-whistleblower-protection.pdf>; Green Climate Fund Independent Redress Mechanism, Retaliation: How Can GCF Protect Me? (May 12, 2020), <https://irm.greenclimate.fund/document/retaliation-brochure>.
 188. See, e.g., Compliance Advisor Ombudsman (CAO), CAO Audit of a Sample of IFC Investments in Third-Party Financial Intermediaries (Oct. 10, 2012), available at <http://www.cao-ombudsman.org/newsroom/documents/FIAUDIT.htm> (additional information on monitoring of the response to the Audit are also available on the website).
 189. See, e.g., GCF, Environmental and Social Policy, *supra* note 106, at para. 17 (additionally throughout the Policy it mentions that intermediaries are required to meet safeguard provisions. For example in paragraph 66 of that Policy it states that accredited entities who are acting as intermediaries must "conduct the necessary due diligence and oversight to confirm that these requirements are fulfilled" in regards to information disclosure.); World Bank, Environmental and Social Standard 9 (2018), <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework/brief/environmental-and-social-standards#ess9>; Khan, *supra* note 32, at paras. 187-90 (emphasizing that it is critical for there to be robust oversight and monitoring frameworks in place, including independent and participatory monitoring frameworks, especially when financial intermediaries are involved).
 190. See Mutimba, *supra* note 121; Khan, *supra* note 32, at paras. 156, 175, 188-89.
 191. See Khan, *supra* note 32, at paras. 155-56, 187-90 (noting in paragraph 155 the insufficiency of relying on self-reporting by accredited or implementing entities on their own compliance with safeguards policies).
 192. See, e.g., Food and Agriculture Organization, Chapter four: Participatory Monitoring, <http://www.fao.org/3/x5307e/x5307e05.htm#chapter%20four:%20participatory%20monitoring> (last visited Jan. 30, 2021).
 193. See Mutimba, *supra* note 121, at 5.

Endnotes from Text Boxes

- i. Intergovernmental Panel on Climate Change (IPCC), *SR5 Summary for policy makers*, in *Climate Change 2014: Mitigation of Climate Change. Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, SPM.2 (O. Edenhofer et al. eds., 2014), https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_summary-for-policymakers.pdf; accord United Nations Environment Programme, *Adaptation Gap Report 2020* IX (2021), available at <https://www.unep.org/resources/adaptation-gap-report-2020> [hereinafter *Adaptation Gap Report 2020*].
- ii. See, e.g., Paris Agreement, art. 4(1), Dec. 15, 2015, T.I.A.S. No. 16-1104; United Nations Framework Convention on Climate Change, arts. 2, 4, May 9, 1992, 1771 U.N.T.S. 107 [hereinafter UNFCCC].
- iii. See generally Green Climate Fund, Project Portfolio, <https://www.greenclimate.fund/projects> (filter by theme: Mitigation) (last visited Feb. 4, 2021).
- iv. Ian R. Noble & Saleemul Huq, et al., *Adaptation needs and options, in Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* 838 (C.B. Field, et al. eds. 2014), https://www.ipcc.ch/site/assets/uploads/2018/02/WGIIAR5-Chap14_FINAL.pdf; accord *Adaptation Gap Report 2020*, *supra* note i, at VIII.
- v. See, e.g., Paris Agreement, *supra* note ii, at art. 7(1).
- vi. See generally Adaptation Fund, Project Information, <https://www.adaptation-fund.org/projects-programmes/project-information/> (last visited Feb. 4, 2021); Green Climate Fund, Project Portfolio, <https://www.greenclimate.fund/projects> (filter by theme: Adaptation) (last visited Feb. 4, 2021).
- vii. See, e.g., Roz Pidcock & Sophie Yeo, *Explainer: Dealing with the 'loss and damage' caused by climate change*, Carbon Brief (May 9, 2017), <https://www.carbonbrief.org/explainer-dealing-with-the-loss-and-damage-caused-by-climate-change>; Action Aid, *Loss and damage from climate change: the cost for poor people in developing countries: Discussion Paper 4* (Nov. 2010), [https://www.actionaid.org/sites/default/files/loss_and_damage_-_discussion_paper_by_actionaid_-_nov_2010.pdf](https://actionaid.org/sites/default/files/loss_and_damage_-_discussion_paper_by_actionaid_-_nov_2010.pdf); Julie-Anne Richards & Liane Schalatek, *Financing Loss and Damage: A Look at Governance and Implementation Options. A discussion paper 5-9* (May 2017), https://www.boell.de/sites/default/files/loss_and_damage_finance_paper_update_16_may_2017.pdf (including examples of loss and damage such as from extreme weather events and glacier melt).
- viii. Paris Agreement, *supra* note ii, at art. 8(4).
- ix. Richards & Schalatek, *supra* note vii, at 6.
- x. Paris Agreement, *supra* note ii, at art. 8(3).
- xi. See Chloé Farand, *Loss and damage: Who pays for the impacts of the heated Earth?*, Climate Home News (Dec. 3, 2019), <https://www.climatechangenews.com/2019/12/03/loss-damage-pays-impacts-heated-earth/>; see also Laura Schäfer & Vera Künzel, *Steps Towards Closing the Loss & Damage Finance Gap: Recommendations for COP25* (Nov. 2019), https://germanwatch.org/sites/germanwatch.org/files/Policy%20Briefing_Steps%20towards%20closing%20the%20Loss%26Damage%20finance%20gap_0.pdf (proposing the creation of a finance facility for loss and damage).
- xii. For an extensive discussion of loss and damage finance and how to implement it, see, e.g., Richards & Schalatek, *supra* note vii; see also Joint Statement of Special Procedures Mandate Holders, UN Climate Action Summit, *Our addiction to fossil fuels causes climate emergency, say human rights experts* (Sept. 17, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25003&LangID=E> (stating that “establishing a new fund ... to support small island developing States and least developed countries in addressing loss and damage caused by climate change” is essential to empowering and protecting vulnerable populations).
- xiii. UNFCCC, *supra* note ii, at art. 11 (defining in art. 11.5 that finance can be given through multilateral, regional, and bilateral channels); see also United Nations Climate Change, Multilateral and Bilateral Funding Sources, <https://unfccc.int/topics/climate-finance/resources/multilateral-and-bilateral-funding-sources> (last visited Jan. 28, 2021).
- xiv. UNFCCC Conference of the Parties, Decision 9/CP.1, FCCC/CP/1995/7/Add.1 (June 6, 1995); see also UNFCCC Conference of the Parties, Decision 12/CP.2, FCCC/CP/1996/15/Add.1 (Oct. 29, 1996).
- xv. This includes the Special Climate Change Fund (SCCF) and the Least Developed Countries Fund (LDCF). UNFCCC Conference of the Parties, Decision 7/CP.7, paras. 2, 6, FCCC/CP/2001/13/Add.1 (Jan. 21, 2002).
- xvi. UNFCCC Conference of the Parties, Decision 10/CP.7, para. 1, FCCC/CP/2001/13/Add.1 (Jan. 21, 2002) (establishing the Adaptation Fund); Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, Decision 13/CMA.1, para. 1, FCCC/PA/CMA/2018/3/Add.2 (Mar. 19, 2019) (deciding that the Adaptation Fund would serve the Paris Agreement); Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, Decision 1/CMP.14, para. 1, FCCC/KP/CMP/2018/8/Add.1 (Mar. 19, 2019) (taking note of Decision 13/CMA.1).
- xvii. UNFCCC Conference of the Parties, Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, para.102, FCCC/CP/2010/7/Add.1 (Mar. 15, 2011) [hereinafter Cancun Agreements]; see also UNFCCC Conference of the Parties, Decision 3/CP.17, FCCC/CP/2011/9/Add.1 (Mar. 15, 2012) (launching the Green Climate Fund and adopting its Governing Instrument).
- xviii. See, e.g., Green Climate Fund, Decision of the Board on updated Terms of Reference of the Independent Redress Mechanism (Revised), para. 7 (2017), <https://irm.greenclimate.fund/document/irm-tor>.
- xix. The Dutch (FMO), German (DEG), and French (Proparco) development finance institutions share a complaints mechanism. See FMO, Independent Complaints Mechanism, <https://www.fmo.nl/independent-complaints-mechanism> (last visited Jan. 30, 2021).
- xx. Caitlin Daniel, Kristen Genovese, Mariëtte van Huijstee & Sarah Singh (Eds.), *Glass Half Full? The State of Accountability in Development Finance* 55 (Jan. 2016), available at glass-half-full.org.
- xxi. See, e.g., Green Climate Fund, Procedures and Guidelines of the Independent Redress Mechanism, para. 2(d), 70, 73 (enabling the IRM to monitor the implementation of the remedial action plan of the GCF and, when necessary recommend improvements) [hereinafter GCF, Procedures and Guidelines of the IRM].
- xxii. See, e.g., Compliance Advisor Ombudsman, Grievance Mechanism Toolkit: A practical guide for implementing grievance mechanisms in different sectors, <https://www.cao-grm.org/> (last visited Jan. 30, 2021); Compliance Advisor Ombudsman, *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects* 22-23 (2008), <http://www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf> [hereinafter CAO, *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*].
- xxiii. See, e.g., CAO, *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*, *supra* note xxii, at 22-23.
- xxiv. See, e.g., Green Climate Fund, Environmental and Social Policy, para. 73 (2018), <https://www.greenclimate.fund/document/environmental-and-social-policy> (stating “GCF requires that accredited entities inform the communities affected, or likely to be affected, by the GCF-

- financed activities about the grievance and redress mechanisms at all three levels [the GCF, accredited entity and activity level], at the earliest opportunity of the stakeholder engagement process and in an understandable format and in all relevant languages.”); Daniel et al., *supra* note xx, at 57, 121 (noting that the Asian Development Bank requires disclosure of information about the complaints mechanism); Bank Information Center, *Analysis of the main improvements of the IDB’s Environmental and Social Policy Framework (ESPF) 2* (2020) (noting that the Inter-American Development Bank requires disclosure about its Independent Consultation and Investigation Mechanism (MICI)).
- xxv. The GCF’s Independent Redress Mechanism (IRM) provides a complaints brochure in 14 languages. See GCF Independent Redress Mechanism, *IRM: Opening Doors to Accountability and Redress*, <https://irm.greenclimate.fund/document/irm-opening-doors-accountability-and-redress> (last visited Jan. 30, 2021).
- xxvi. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at paras. 2(c), 20, 21.
- xxvii. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at paras. 27–28.
- xxviii. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at para. 25 (noting explicitly that “There are no formal requirements for filing a grievance or complaint.”).
- xxix. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at para. 80 (stating explicitly “The GCF does not countenance retaliation against a complainant or any other person involved in an IRM process”); Independent Redress Mechanism, *Supporting Operating Procedures of the IRM on Retaliation* (Jan. 22, 2021), <https://irm.greenclimate.fund/document/supporting-operating-procedures-irm-retaliation>; Compliance Advisor Ombudsman (CAO), *Approach to Responding to Concerns of Threats and Instances of Reprisals in CAO Operations*, <http://www.cao-ombudsman.org/newsroom/documents/CAOApproachtoReprisals.htm>; World Bank Inspection Panel, *Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process*, https://www.inspectionpanel.org/sites/ip-ms8.extcc.com/files/documents/IPN%20Retaliation%20Guidelines_2018.pdf; Tove Holmström, *A Guide for Independent Accountability Mechanisms on Measures to Address the Risks of Reprisals in Complaint Management: A Practical Toolkit* (2019), <https://www.iadb.org/ReprisalsToolkit> (commissioned by MICI) [hereinafter *A Guide for Independent Accountability Mechanisms on Measures to Address the Risks of Reprisals in Complaint Management: A Practical Toolkit*].
- xxx. See Daniel et al., *supra* note xx, at 58–59, 122; Tessa Khan, *Promoting rights-based climate finance for people and planet*, para. 193, U.N. Doc. A/HRC/WG.2/19/CRP.4 (Apr. 18, 2018).
- xxxi. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at paras. 60–61 (including that “The draft compliance report will be provided to the complainant and the Executive Director of the GCF Secretariat for their comments” and to the accredited entity, where applicable. The IRM will then take those comments into consideration in its final compliance report); see also Daniel et al., *supra* note xx, at 122.
- xxxii. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at para. 67 (stating that the remedial action plan shall include the GCF conducting a “consultation with the IRM (and through the IRM, the complainant)” as well as the accredited entity and/or executing entity and that “A draft remedial action plan shall be provided to the IRM, complainant, AE or the Executing Entity” so that they can provide comments to be considered before the action plan is finalized).
- xxxiii. See, e.g., Daniel et al., *supra* note xx, at 61–62.
- xxxiv. Cf. CAO, *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*, *supra* note xxii, at 22–23, 57 (identifying that it is important to consider local cultural norms when designing and implementing a grievance mechanism at the local project-level).
- xxxv. See Khan, *supra* note xxx, at para. 193.
- xxxvi. See, e.g., GCF, Procedures and Guidelines of the IRM, *supra* note xxi, at para. 80; see generally IRM *Supporting Operating Procedures of the IRM on Retaliation*, *supra* note xxix; CAO, *Approach to Responding to Concerns of Threats and Instances of Reprisals in CAO Operations*, *supra* note xxix; World Bank Inspection Panel, *Guidelines to Reduce Retaliation Risks and Respond to Retaliation During the Panel Process*, *supra* note xxix; *A Guide for Independent Accountability Mechanisms on Measures to Address the Risks of Reprisals in Complaint Management: A Practical Toolkit* (2019), *supra* note xxix.
- xxxvii. In the absence of having an official advisory mandate, the World Bank Inspection Panel created an “Emerging Lessons Series” to provide lessons from its cases and has covered a variety of topics including how to respond to gender-based violence complaints, biodiversity offsets, consultation and information disclosure, environmental assessment, Indigenous Peoples, and involuntary resettlement. See World Bank Inspection Panel, Emerging Lessons Series, <https://www.inspectionpanel.org/publications> (providing links to all publications in the series) (last visited Jan. 30, 2021).
- xxxviii. For example, the Compliance Advisor Ombudsman (<http://www.cao-ombudsman.org/>) and GCF Independent Redress Mechanism (<https://irm.greenclimate.fund/>) both have an official advisory function.
- xxxix. Several accountability mechanisms have published a variety of advisory reports. See, e.g., Compliance Advisor Ombudsman, How We Work: Advisor, <http://www.cao-ombudsman.org/howwework/advisor/> (providing links to numerous reports that have been produced through the CAO advisory role); GCF Independent Redress Mechanism, *Advisory Report on the Prevention of Sexual Exploitation, Abuse and Harassment in GCF Projects and Programmes* (July 27, 2020), available at <https://irm.greenclimate.fund/resources/advisory-reports>; Inspection Panel Emerging Lessons Series, *supra* note xxxvii.

FUNDING OUR FUTURE

Five Pillars for Advancing Rights-Based Climate Finance

As the climate crisis intensifies, so, too, do its impacts on human rights. Addressing these impacts requires urgent, ambitious action and significant funding to support dramatic emissions reductions, adaptation to a rapidly changing world, and action on loss and damage due to climate change. This funding is colloquially known as climate finance.

To advance the principal goals of the UNFCCC and the Paris Agreement and protect human rights, climate finance must be: ambitious, equitable, fair, effective, and rights-based. Together, these five elements determine the compatibility of climate finance with human rights. Adequate climate finance must flow from those developed countries most responsible for the climate crisis to those developing countries least responsible for it, yet most adversely affected by it. Funding must reach those most in need, without creating new debt or compounding existing inequalities. Climate finance must support proven strategies and community-driven solutions that can pave the way to a fossil-free, clean-energy future and enhance the resilience of those most vulnerable to climate harm — not lock in reliance on fossil fuels and industrial agriculture or subsidize false solutions. Finally, climate finance must be designed and implemented through a rights-based approach that prioritizes transparency, public participation, and accountability.

The report focuses primarily on this last element, drawing lessons from experience to date to inform a broader discussion about the fundamental contours of climate finance: what is funded, where, how much, and on what terms.

Climate finance decisions made today determine social resilience tomorrow, and influence the realization of human rights well into the future. If pursued in accordance with the five central pillars outlined in this report, climate finance has the power to transform global climate action and ensure communities around the globe can enjoy the right to a safe climate — now and for generations to come.



1101 15th Street NW, 11th Floor
Washington, DC 20005 USA

Phone: (202) 785-8700 • www.ciel.org