Promoting Human Rights in Climate Action: Report from the Glasgow climate conference (COP26)

This report summarizes key developments occurring during the 26th United Nations Climate Change Conference of the Parties (COP26) climate negotiations in November 2021 in Glasgow with regards to the integration of human rights in climate policies. The report provides a short analysis of the outcomes of COP26 in relation to agenda items with particular relevance to human rights, recognizing that this is a narrow but important lens to look at the climate negotiations. It also discusses the backdrop of the negotiations, as these elements are important to keep in mind when analyzing the outcomes. Lastly, the report provides an overview of upcoming opportunities for advocacy for the integration of human rights in the United Nations Framework Convention on Climate Change (UNFCCC) process in 2022.

BACKDROP OF COP26: VACCINE APARTHEID AND LIMITED ACCESS TO THE NEGOTIATIONS

COP26 was scheduled to take place in November 2020. Five years on from Paris, it was to be a litmus test for the willingness of States to deliver on the three objectives of the 2015 Agreement: limiting the increase of greenhouse gas emissions to avoid more dangerous levels of global warming, increasing resilience, and aligning financial flows with economy-wide decarbonization. After an initial postponement due to the pandemic, the conference was scheduled to take place a year later in November 2021 at a time when vaccine apartheid and nationalist health policies were still impacting billions of people worldwide. Determined to hold an in-person summit despite this context, the UK COP Presidency promised ‘the most inclusive COP ever’. Instead, on top of unequal participation due to travel restrictions and exorbitant accommodation prices, people who did make it to Glasgow faced unprecedented limitations on access to the negotiation rooms.

Despite having had two years to deliver on their inclusivity pledge, the modalities for COP26 were not designed in a way that made meaningful public participation possible. In particular, accredited observers were excluded from the entire space where negotiations took place during the first two days of the COP, despite access being granted to the many business actors invited to launch a variety of initiatives. Such a blanket ban on the presence of civil society and Indigenous Peoples representatives is unprecedented. Additionally, modalities for civil society presence in the negotiating rooms remained severely curtailed for the entire duration of the COP. Frequent changes in the modalities for participation and the continuous malfunctioning of the virtual participation platform further limited accredited delegates’ ability to observe and participate in the negotiations.

As organizers of the conference, the UK Presidency and the UNFCCC had a duty under international legal obligations to ensure that the voices of those most impacted by climate change and by climate responses were heard in the room. The failure to do this led to dramatic outcomes, for example in the decision about the Action for Climate Empowerment work program, and restricted civil society and Indigenous Peoples'
ability to halt destructive decisions being pushed through, such as allowing significant loopholes and failing to meaningfully recognize Indigenous Peoples’ rights in the Article 6 outcome (see below). This backdrop is highly relevant to consider when analyzing the outcomes of COP26, especially from a human rights perspective.

**KEEPING 1.5°C ALIVE**

With the publication of the first Working Group (WG) report of their 6th Assessment Report (AR6), the IPCC gave a stark warning: climate change is widespread, rapid, and intensifying. It already significantly affects the realization of human rights worldwide; therefore, keeping the increase of temperatures below 1.5°C is imperative for the protection and promotion of human rights. This requires an urgent increase of mitigation ambition. But the Glasgow summit barely kept the chances of staying below 1.5°C alive. The Climate Vulnerable Forum (CVF) signed the Dhaka-Glasgow declaration, asking for a Climate Emergency Pact at COP26 to install an annual ambition moment to address the looming emissions gap between the Paris temperature goals and the Nationally Determined Contributions (NDCs), as demonstrated by the UNFCCC Synthesis Report. The final outcome did not reflect this important demand but instead, requested Parties to update their NDCs by the end of 2022. These revised NDCs should focus on effective actions and excluding harmful solutions, including through participatory processes guided by the need for climate responses to be socially inclusive and to promote human rights.

Decades after the climate negotiations began, Parties to the UNFCCC finally named the main driver of the climate crisis: fossil fuels. However, the outcome that Parties agreed on in the ‘Glasgow Climate Pact’ fails to effectively confront the fossil fuel industry, only addressing unabated coal and inefficient fossil fuel subsidies, opening the door for dangerous and unproven technologies such as carbon capture and storage, and leaving oil and gas out of the equation. This shows the continuing influence of the fossil fuel industry, which had a COP26 delegation larger than any national delegation, on the climate negotiations despite its declining prospects in the broader world. That the mere mention of fossil fuels marks a breakthrough in nearly 30 years of global climate talks, demonstrates the disconnect between State actions and the reality in the streets and on the frontlines. But the outcome is also an indication of the mounting pressure to accelerate the inevitable and necessary end of the fossil fuel era. The Beyond Oil and Gas Alliance announced in Glasgow and the growing number of endorsements of the Fossil Fuel Non-Proliferation Treaty initiative are signs of where things are headed and must go to avoid climate catastrophe.

COP26 also saw a flood of new announcements made by governments during the high-level sections of the summit. This trend was criticized by civil society as it does not match with the lack of progress made in the actual negotiations and, as it takes up most of the COP26 media coverage, creates an overly positive perception of what is happening at the climate talks.

**CARBON MARKETS AND COOPERATIVE APPROACHES (ARTICLE 6)**

After six years, countries finally concluded initial rules to implement the mechanisms foreseen in Article 6 of the Paris Agreement. Though work will continue to further flush out how these market and non-market approaches will work, this marks the completion of the Paris Agreement Rulebook. This “milestone” was one that many, especially highly emitting corporate actors, pushed for, positing that these rules were necessary
for the implementation of the Paris Agreement. This, of course, was false as the Article 6 mechanisms are all voluntary and countries have been able to implement the Paris Agreement without them. Moreover, the carbon market mechanisms, which have been the primary focus of Article 6 discussions, are likely to do little to enable the climate action needed to stay below 1.5°C and instead are more likely to undermine climate action by allowing big polluters to continue business as usual while buying offsets.

Human rights including the rights of Indigenous Peoples, at long last, were a central part of the Article 6 discussion at COP26 with more Parties than ever emphasizing the importance of their inclusion in the rules. This was a welcome shift as history has demonstrated that carbon market projects have led to significant rights violations. Ultimately this resulted in the rules for all three Article 6 elements (6.2: the use of internationally transferred mitigation outcomes, 6.4: establishing a “Sustainable Development Mechanism, and 6.8: non-market approaches) containing references to human rights including the rights of Indigenous Peoples as well as rules for consultation and a late-included reference to an independent grievance process. This is an important and significant step as the references were not limited to preambular text or the cover paragraphs, but in the annexes containing the actual rules themselves. However, these references are insufficient as they are not reflected in critical elements, such as article 6.4 activity design, and fail to fully respect international human rights standards. For example, the rules related to local stakeholder consultation do not ensure respect for Indigenous Peoples’ right to free, prior and informed consent (FPIC) and contain carve-outs for domestic arrangements. Additionally, while they reference many elements of the Paris Agreement’s preamble language on human rights, they largely fail to incorporate a just transition and labor rights.

Protecting human rights including the rights of Indigenous Peoples also requires ensuring that the Article 6 mechanisms do not undermine environmental integrity by contributing to the climate crisis rather than reducing emissions. The rules adopted at COP26 went a long way to preventing most potential instances for double-counting of emissions reductions, but did not eliminate all loopholes, including the ones related to voluntary carbon markets. Parties reached a compromise on the rules that open the door to using junk credits from the Clean Development Mechanism (CDM); these rules allow for unused credits from projects dating back to 2013 to be used to meet emissions reduction targets going forward. Not only are these credits for past reductions (and therefore already reflected in the atmosphere), but they could also be from projects linked to land grabs and serious rights violations. Allowing the use of these junk credits to achieve “net zero” or post-2020 NDC emission reduction targets does nothing to address the climate crisis and reduce emissions now. Lastly, in the final rules, Parties did little to move beyond mere offsetting and to enhance overall ambition. The rules allow buyers to use most of the carbon credits they purchase to directly offset their ongoing emissions, while only setting aside (or canceling) a particularly small quota of credits, and this only applies to 6.4, not 6.2 activities. This lack of ambition on overall mitigation of global emissions (OMGE) calls into question the commitment of Parties to use Article 6 to increase climate action rather than to merely offset business as usual activities.

On a more positive note, to implement article 6.8, Parties established a Glasgow Committee for Non-market Approaches and a work program to explore how to enable non-market international cooperation. This framework and work program has the potential to enable real climate action not aimed at offsetting but instead that promotes a just transition, protects human rights including the rights of Indigenous Peoples, and ensures ecosystem integrity.
Looking ahead, considerable work remains to ensure that Article 6 activities avoid committing human rights violations and undermining the integrity of the Paris Agreement. For starters, there are numerous calls for submissions across Article 6 elements. Additionally, work will have to be done to establish the Supervisory Body for the 6.4 mechanism including the rules related to rights-based social and environmental safeguards and the independent grievance process, among others. Countries and companies’ actions will also have to be monitored as they seek to implement Article 6 to minimize reliance on junk CDM credits and to encourage cooperative approaches that go beyond mere offsetting and instead enable the more ambitious action needed.

**LOSS AND DAMAGE**

While the Paris Agreement recognized loss and damage as the third pillar of climate action, richer countries have so far done extremely little to meet actual needs. After a year of devastating impacts, civil society and vulnerable countries went to COP26 determined to put loss and damage on the agenda and demand action by setting up the institutions needed to make support and finance for loss and damage a reality.

It is undeniable that loss and damage was high on the agenda in Glasgow. And with the operationalization of the Santiago Network on Loss and Damage, providing it with funding and determining a concrete list of its functions, incremental progress was made on the institutional aspects. However, the ‘Glasgow Climate Pact’ shows that political leaders are still not ready to take the necessary real action. The Glasgow Finance Facility for Loss and Damage proposed by all developing countries was watered down significantly. With a ‘Glasgow Dialogue’ to be concluded in June 2024 (SBI 60), the decision creates yet another process to talk about loss and damage instead of actually addressing it. Once again, developed countries failed the most vulnerable communities. This is all the more alarming, as weak outcomes on other aspects such as ambition and Article 6 (see above) will inevitably lead to more climate harm and human rights violations.

A silver lining amidst the disappointment, Scotland pledged £2 million (2.7 million USD) for loss and damage finance, giving real legitimacy to the above-mentioned proposal for a facility. Although the amount is miniscule in light of the immense loss and damage faced by developing countries, the importance of this political signal cannot be underestimated. The Walloon region of Belgium followed Scotland’s lead and pledged 1 million euros (1.3 million USD) for loss and damage in the final hours of the COP. COP27 must build on this support to make a proper financing facility a reality and to start reflecting on how to mobilize innovative sources of finance for loss and damage such as air travel and maritime shipping levies as set forth by the Special Rapporteur on Human Rights and the Environment.

**ACTION FOR CLIMATE EMPOWERMENT**

At COP26, Parties adopted the new ten-year Glasgow Work Program on Action for Climate Empowerment (ACE). This new Work Program could have provided the opportunity to strengthen a human rights-based approach to climate action, enhancing public participation, access to information, and climate education, among other elements, in the implementation of the Paris Agreement at the national level. In the year ahead of the COP, the Secretariat and the SBI Chair had put in place inclusive virtual consultations, engaging civil society and Indigenous Peoples’ organizations in discussions on the elements that should guide the new Work Program. Despite this, negotiations at COP26 were conducted in an exclusionary manner, and
observers had extremely limited opportunities to engage meaningfully, in stark contrast with the usual practice to conduct Action for Climate Empowerment negotiations in a more transparent manner.

While the initial draft decision text mentioned a “human rights-based approach” among the principles guiding the new Work Program, this reference was deleted during the final hours of closed-door negotiations. Despite the Glasgow Work Program being about public participation, this non-inclusive process led to a text that lacks any mention of human rights. Following observers’ outcry about this failure, various states acknowledged their responsibility in failing to include human rights language. During the SBI closing plenary, thirteen parties from most regional groups took the floor to express their regrets for not ensuring that a human rights-based approach be included in the decision. In the end, the COP26 and CMA3 cover decisions made an ad hoc reference to rectify this gap: “[u]rges Parties to swiftly begin implementing the Glasgow work program on Action for Climate Empowerment, respecting, promoting and considering their respective obligations on human rights, as well as gender equality and empowerment of women”. At the SBI session in June 2022, Parties will have to craft the Glasgow Work Program’s action plan, which will consist of a set of activities that should guide and support Parties’ implementation of the six pillars of ACE over the next years. This will be an important opportunity to ensure that human rights inform relevant activities, thus making the ACE workstream a valid tool to enhance people-centered climate action. A workshop on Action for Climate Empowerment will take place during the June intersessional meeting, and will inform the negotiations on the action plan. Unacceptably, per COP decision text, the workshop will be open to Parties only.

**INTEGRATION OF HUMAN RIGHTS IN OTHER RELEVANT OUTCOMES**

> Local Communities and Indigenous Peoples Platform

Prior to COP26, the Facilitative Working Group (FWG) of the Local Communities and Indigenous Peoples Platform (LCIPP) held its 6th meeting and focused much of its attention on reviewing the progress made towards the completion of all activities under its initial two-year work plan. The LCIPP also held several events during COP26, engaging in particular with members of other constituted bodies as a way to ensure that traditional knowledge and the participation of Indigenous Peoples become better reflected in a wider range of thematic workstreams under the UNFCCC. Additionally, the LCIPP held its first annual gathering of knowledge holders in parallel to COP26 as an opportunity for Parties to benefit from the expertise and knowledge of Indigenous Peoples in a manner that strengthens mitigation and adaptation policies in a holistic and integrated manner. COP26 also welcomed the second work plan (2022-2024) adopted by the LCIPP Facilitative Working Group. This new work plan includes nine activities addressing the three main functions of the LCIPP related to knowledge, capacity for engagement, and climate change policies and actions.

Additionally, the recognition of the rights of Indigenous Peoples and local communities was a key pillar of the “Glasgow Leaders’ Declaration on Forests and Land Use”. The Declaration affirmed the commitment of its signatories to enhance efforts to conserve and accelerate the restoration of forests and other terrestrial ecosystems. Endorsed by 141 States Parties to the Paris Agreement, it constituted the most significant outcome of the COP with regards to forestry and land use. Furthermore, the Declaration was accompanied by a COP26 Indigenous Peoples and Local Communities Forest Tenure Statement through which government and philanthropic donors committed $1.7 billion of financing over five years to support
Indigenous Peoples’ and local communities’ forest tenure rights and greater recognition for their role as guardians of forests and nature.

> Climate Technology Center and Network

Providing one example of progress at COP26, the Climate Technology Center and Network (CTCN) took a significant step ahead to ensure participation in its Advisory Board. During its review, the COP decided that the CTCN Advisory Board will have — along with governments, constituted bodies, and funds representatives — six representatives of observer constituencies, one selected by each of the following constituencies: environmental NGOs, business and industry organizations, research and independent organizations, youth non-governmental organizations, Indigenous Peoples organizations, and the women and gender constituency. The CTCN, which is tasked with providing technical assistance and information and ensuring collaboration to accelerate the transfer of climate technology, can be seen walking the walk by incorporating the underlying structure supporting their aim to achieve fair and balanced representation and actually ensuring the input from civil society along with the general make-up of the board. This marks a big step towards ensuring meaningful participation at the highest level of the board as these modalities will allow for a broad range of stakeholders to bring in their expertise, knowledge, and considerations directly into the Board. It also provides opportunities for input to the CTCN’s terms of reference and guidance on its work. As advocated for by civil society at COP26, the inclusion of civil society representatives in the CTCN Advisory Board demonstrates an example of good practice that could pave the way for the inclusion of a diversity of perspectives in subsidiary bodies established under the UNFCCC, and in fact create the structures for meaningful participation.

> Gender and Climate Change

Women and girls are disproportionately impacted by the climate crisis and are important agents of the necessary transition, yet they remain underrepresented in climate negotiations: a mere 35% of registered delegates to COP26 were women. This is important to keep in mind when looking at the gender outcomes of the negotiations in Glasgow. Gender-responsive climate action was not high on the official agenda at COP26. Parties did adopt a COP decision on gender and climate change, but the decision fails to set the stage for real transformative action. The adoption of the updated 5-year Gender Action Plan (GAP) was a major achievement of COP25. Yet, two years on, COP26 failed to push forward meaningful progress in fulfilling the ambitions set out in Madrid and did not provide clear guidance for the review of the GAP that is planned for 2022. Recommendations remained technocratic and superficial, and failed to denounce the deeply embedded power relations that lie behind gendered inequalities. After twenty years of negotiations, with the first calls for the meaningful participation of women in COP decision making made in 2001, and the widely available array of reports and evidence, Parties should be much more progressive and call for a full system transformation.

The decision adopted in Glasgow includes a call for submissions “on the progress of implementation of the activities contained in the gender action plan, areas for improvement and further work to be undertaken, including, as appropriate, information on the multidimensional impacts of the coronavirus disease 2019 pandemic on progress, and consideration of other diverse challenges that may impact future implementation of the gender action plan at all levels” by 31 March 2022 and requests the Secretariat to prepare a synthesis report based on these submissions, virtual and in-person workshops, and relevant
research. Furthermore, an in-session workshop on the role of national gender and climate change focal points was held at the beginning of COP26 under activity 2 of the GAP. The commitments made by countries on gender-responsive climate action and improved meaningful participation by women in the context of the Feminist Action for Climate Justice Coalition are worth highlighting. COP27 must ensure meaningful participation of women and girls and conclude an ambitious review of the GAP, to pave the way for fulfilling and strengthening ambitions.

> Agriculture and Food Security

Agriculture is at the same time a sector that is highly vulnerable to and a major driver of the climate crisis. It was therefore highly relevant that Parties at COP23 established the Koronivia Joint Work on Agriculture (KJWA) to advance the discussions on agriculture under the UNFCCC. Parties were supposed to conclude this work and should have delivered a clear and tangible result such as guidelines, recommendations, or principles for climate action in agriculture, providing guidance not only for Nationally Determined Contributions (NDCs) but also for climate finance. Importantly, such principles must highlight a human rights-based approach to agriculture by putting farmers, smallholders, youth, women, and Indigenous Peoples’ rights at the center of the policies and climate responses advancing food security and sovereignty. However, negotiators failed to agree on several critical issues and decided to postpone the final decision to COP27. The text that will be further discussed still contains many brackets, including around the term ‘agroecology’. Although bracketed, it is an important achievement that agroecology made it to a UNFCCC text. The conclusion of the work next year must reinforce agroecology’s place in policies and increase public investments that combine food quality, human health, employment, and social inclusion, and respond to climate change emergencies.

> Global Stocktake

The global stocktake (GST) is a process established under Article 14 of the Paris Agreement to assess collective progress in achieving the objectives of the agreement in terms of mitigation, adaptation, and finance in the light of equity and best available science. The process is central to the ratchet mechanism of the Paris Agreement and takes place every five years, with the first GST starting in early 2022 and to be concluded in 2023, at COP28. In addition to the principles of equity and best available science laid out in Article 14 of the Paris Agreement, the GST should review climate action in light of human rights, including the rights of Indigenous Peoples, public participation, gender equality, food security, intergenerational equity, ecosystem integrity, and a just transition for workers. A holistic approach to the GST will ensure a) the integration of climate action and rights and therefore the effective realization of all the goals of the Paris Agreement, b) that climate action is integrated with other aspects of sustainable development, and c) the promotion of international policy coherence. The GST also provides an opportunity to consider the progress and challenges to taking real action that addresses the drivers of climate change, including the need to phase out fossil fuels and to address land-use emissions through effective and inclusive policymaking. The guiding questions proposed before COP by the SBI and SBSTA chairs did not cover this broad range of elements and, unfortunately, these questions remained unchanged at COP26. This however should not limit a meaningful process: many of the guiding questions explicitly or implicitly allow for an analysis of the mentioned topics, and respondents can go beyond their scope. The first submissions for the Global Stocktake have to be submitted by 28 February 2022, ahead of the first technical dialogue.
> Finance

Climate finance remains a critical element of climate action as addressing the climate crisis requires significant amounts of support. During COP26, much of the focus on climate finance was on the lack of finance for loss and damage (as discussed above), the ongoing (and continuing until at least 2023) failure of developed countries to meet their $100 billion by 2020 commitment, the need for significantly more adaptation finance, including achieving the long-promised 50:50 balance between adaptation and mitigation finance, and the need for not billions, but trillions in climate finance. While this is all true, there were a few bright spots including Scotland’s previously discussed pledge to provide loss and damage finance. Additionally, developed country Parties pledged to double their adaptation finance over the next four years. This included hundreds of millions in new finance to both the Adaptation Fund and the Least Developed Countries Fund. Though these are positive developments, developed countries must do significantly more to provide the money they owe to developing countries who have done the least to cause the climate crisis and need the most support to address the climate crisis. Going forward, Parties must step up ambition and provide real, accessible, and adequate people-centered and gender-responsive climate finance in the form of grants. They must also collectively work to establish a new long-term climate finance goal based on need not on political compromises.

**MOVING FORWARD: PROMOTING HUMAN RIGHTS UNDER THE PARIS AGREEMENT IN 2022**

The upcoming year provides a number of important opportunities for integrating human rights in climate action, including:

- Providing effective support and remedy for vulnerable communities already facing climate harms, including by establishing a proper loss and damage financing facility at COP27 latest, accompanied by effective policies to mobilize resources;
- Ensuring that the activities under the ACE Glasgow Work Program’s action plan contribute to the protection and realization of human rights, making the workstream a valid tool to enhance people-centered climate action and to protect environmental defenders in the context of climate action;
- Ensuring that the human rights dimensions of climate justice are adequately considered through the Global Stocktake, including the rights of Indigenous Peoples and land tenure, public participation, gender equality, food security, intergenerational equity and a just transition for workers, as well as ecosystem integrity;
- Revising NDCs in the lead up to COP27 to enhance ambition in line with the Paris Agreement’s objectives and the best available science with a focus on effective actions and excluding harmful solutions, including through participatory processes guided by the need for climate responses to be socially inclusive and to promote human rights.
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<td>Call for submissions from Parties and non-Party stakeholders to guide its work on the annual <strong>PCCB focus area</strong>.</td>
<td>2.25.2022</td>
<td>Paris Committee on Capacity-Building (PCCB)</td>
<td>PCCB/2020/3, Background note on the draft 2021–2024 workplan of the Paris Committee on Capacity-building</td>
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<td>Views and information on the focus areas of the work program activities and existing relevant <strong>non-market approaches</strong> referred to in Article 6, paragraph 8, of the Paris Agreement to be facilitated under the framework.</td>
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<td>Views on matters for an in-session workshop on how priority areas can guide implementation of the six elements of <strong>Action for Climate Empowerment</strong>, through a short-term action plan guiding, inter alia, the organization of the annual in-session Action for Climate Empowerment dialogue.</td>
<td>2.28.2022</td>
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<td>FCCC/SBI/2021/L.18, Review of the Doha work program on Article 6 of the Convention</td>
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<td>Call for inputs from Parties and observer States, UN Agencies and other international organizations and non-Party Stakeholders and observer Organizations, to the <strong>first global stocktake</strong>.</td>
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<td>Views on the aspects of the <strong>Santiago Network</strong>: Operational modalities; Structure; The role of the Ex Com and its expert groups, task force, and technical expert group; The role of L&amp;D contact points and other relevant stakeholders; Possible elements for the terms of reference of a potential convening or coordinating body that may provide secretarial services to facilitate work under the Santiago network.</td>
<td>3.15.2022</td>
<td>Warsaw International Mechanism (WIM) Executive Committee (ExCom)</td>
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<td>Information on the progress of implementation of the activities contained in the <strong>gender action plan</strong>, areas for improvement and further work to be undertaken, including, as appropriate, information on the multidimensional impacts of the coronavirus disease 2019 pandemic on progress, and consideration of other diverse challenges that may impact the future implementation of the gender action plan at all levels.</td>
<td>3.30.2022</td>
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<td>Share experiences on dimensions and examples of the gender differentiated impacts of climate change, the role of women as agents of change and opportunities for women.</td>
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<td>Views on the elements of the midterm review of the work plan of the forum on response measures and its KCI.</td>
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<td>Share experience and support capacity-building on gender budgeting, including on the integration of gender-responsive budgeting into national budgets to advance gender-responsive climate policies, plans, strategies and action, as appropriate.</td>
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For additional submission deadlines, see [UNFCCC Submission Portal](#).

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