

Racial Discrimination Obligations of States in the Context of Climate Change

The Role of the Committee on the Elimination of Racial Discrimination



The Committee on the Elimination of Racial Discrimination (CERD) has only begun to consider the linkages between climate change and States' obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). While the Convention itself does not refer to the environment or to natural resources, the Committee highlighted in its [General Recommendation No. 34 regarding Racial discrimination against people of African descent \(2011\)](#) that the Convention protects the right of people of African descent to exercise, individually or collectively, "the right to property and to the use, conservation and protection of lands traditionally occupied by them and to natural resources in cases where their ways of life and culture are linked to their utilization of lands and resources." In its [General Recommendation No. 23 on the rights of indigenous peoples](#), the Committee reaffirmed the "rights of indigenous peoples to own, develop, control and

use their communal lands, territories and resources," as well as the obligation of the States to "take steps to return those lands and territories where [Indigenous Peoples] have been deprived of their lands and territories traditionally owned or otherwise inhabited or used without their free and informed consent."

The Committee addressed climate change explicitly for the first time in 2019 as it adopted two climate-related recommendations to States as part of its State reporting procedure. Those recommendations focused on the impact of climate change on Indigenous Peoples' rights and lands. They recommended ensuring the participation of Indigenous Peoples in climate policy making (Concluding Observations (COBs) to El Salvador and Mexico).

In 2020, the CERD explicitly referred to climate change in one out of a total of three outputs. In 2021, it issued only one climate-related output out of 10

outputs in total. In its 2020 List of Issues Prior to Reporting (LOIPR) addressed to Guyana, the CERD asked the State to report back on measures adopted to address the linkages between climate change, oil and gas production, deforestation, and the rights of Indigenous Peoples. The Committee requested information regarding the measures taken to mitigate the adverse impacts on Indigenous Peoples resulting from these threats, on a guarantee of the right to participate in related decision-making for the communities at risk of being affected and on “whether the State party has established a mechanism to ensure that the profits from oil and gas production benefit all ethnic groups without discrimination.”

In its 2021 COB to the Netherlands, the Committee expressed concern over the effects of climate change on some Dutch Caribbean islands and the lack of support they are receiving to address those issues. The

Committee recommended that the State party “initiate studies to understand the negative impact that climate change may have on people living in islands in the Caribbean part of the Kingdom of the Netherlands,” “take measures to mitigate and to protect vulnerable groups from the negative effects of climate change,” and “consider avenues to provide full support to the communities affected.” The Committee also requested detailed information from the Netherlands on steps taken to implement these recommendations in its next periodic report.

Climate-related issues are likely to gain prominence in the work of CERD as a growing number of institutions and organizations are seeking to address States’ obligations regarding the elimination of racial discrimination in the context of climate change. In 2019, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia,



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and related intolerance presented her report on Global extractivism and racial equality to the Human Rights Council, which touched on these linkages. The UN Working Group of Experts on People of African Descent also dedicated its 2021 annual meeting to Environmental justice, the climate crisis, and people of African descent. In its [report](#) of the meeting, the Working Group of Experts stresses that people of African descent “continue to be subjected to environmental racism and are disproportionately affected by the climate crisis” and that “climate change is a bi-product of an economic system that is heavily reliant on extraction, exploitation and accumulation through dispossession.” It highlights the importance of a human rights-based approach to help address inequalities. It reiterates the right to a healthy environment, encompassing “the rights to clean air, safe and sufficient water, sanitation, healthy and sustainable food, a toxic-free environment, a safe and stable climate and healthy ecosystems and biodiversity,” well as environmental procedural rights. The Working Group of Experts issued a number of recommendations related to climate policies, highlighting that States should give priority “to increasing the participation of people of African descent in the design and implementation of climate change emergency response, adaptation and mitigation measures,” and “recognize the rights of people of African descent to ancestral territories and value ancestral knowledge to mitigate climate change,” among others. The Working Group of Experts welcomed the preparation by CERD of a new General Recommendation on the right to health and racial



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discrimination. It noted the importance of addressing the linkages between the right to health and the right to environmental justice.

Non-governmental organizations (NGOs) have increasingly sought to bring related issues to the attention of the CERD. For instance, the CERD’s recommendations to the Netherlands were informed by the comprehensive [parallel report](#) submitted in 2020 to the Committee by 10 Dutch NGOs in advance of the review. The increased attention to climate issues and growing expertise could contribute to increasing awareness among Committee members of the linkages between climate change and the provisions of the ICERD, as well inform the proceedings of the Committee as it continues its work.



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