

States' Human Rights Obligations in the Context of Climate Change

Guidance Provided by the UN Human Rights Treaty Bodies

2022 Update



Human Rights Treaty Bodies (HRTBs) are the expert bodies established by the international human rights treaties and mandated to monitor their implementation by the State parties to those treaties. The HRTBs are made up of independent human rights experts elected by the State parties. They have three main activities: reviewing States' implementation of the relevant human rights treaty (State review process); elaborating General Comments or statements which provide guidance to States on the interpretation of the treaty; and adjudicating Individual Communications (complaints of violations of the treaty by a State party) and issuing decisions.

States' Human Rights Obligations in the Context of Climate Change: Guidance Provided by the UN Human Rights Treaty Bodies builds on a previous report by adding information and analysis on the work of HRTBs on climate change in 2020 and 2021. Our analysis considers the work of the seven HRTBs whose mandates relate most directly to climate change

(see Table 1 for the list of the HRTBs and some of the rights and principles most relevant to climate change contained in the respective legal instruments).

The COVID-19 pandemic marred 2020 and 2021, significantly impacting United Nations (UN) human rights mechanisms, including the treaty bodies. The pandemic has had three main impacts:

1. The shift away from in-person meetings severely affected the HRTBs, which rely so heavily on in-person meetings for their work. While in-person meetings were not possible during 2020, they partly resumed in 2021. Given the circumstances, most of the Dialogues with States, which are the main activity of the State reporting procedure, were not possible. As a result, there were very few "Concluding Observations" (COBs) – i.e., HRTBs' recommendations to State parties – adopted in 2020 and 2021.

2. Adapting to online work has been logistically difficult and time-consuming for the treaty bodies. Overall, it has slowed their pace of work and reduced opportunities for civil society to interact with the members of the committees. Nevertheless, many of the HRTBs have used their online meetings to adopt more questions on specific matters to State parties, often known as either “Lists of Issues” (LOIs) or “Lists of Issues Prior to Reporting” (LOIPRs) during 2020 and 2021.
3. HRTBs diverted their attention to COVID-19 and its impacts on human rights. As a result, other themes might have received less overall attention in 2020 and 2021 than would otherwise have been the case.

In this context, the HRTBs issued fewer climate-related outputs in 2020 than in 2019 (when HRTBs made 61 references), but the number increased in 2021, exceeding those in any previous year. In 2020, there were 54 references to climate change (11 COBs + 43 LOIs/LOIPRs) in the outputs made to States as part of the HRTBs’ State reporting procedures. Nonetheless, this amounted to around 38% of the total number of outputs issued by the HRTBs in 2020, a rise from approximately 28% of the total outputs in 2019. In 2021, climate-related outputs amounted to 69 (22 COBs + 47 LOIs/LOIPRs), representing around 53% of the total number of outputs issued in 2021. In 2021, the Committee on the Rights of the Child (CRC) issued their decisions on the *Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey* communication, which related specifically to the duty of States to protect children from climate-induced harms. The Human Rights Committee (CCPR) also delivered a decision in the *Pereira Benega v. Paraguay* communication, which related to other environmental concerns.

The retained attention on climate change by the HRTBs during the pandemic, shift to online work, and rise of new issues of concern demonstrates that the HRTBs recognize the imperative of addressing the

climate crisis and that its harmful impacts on rights is as urgent as ever.

Additionally, developments at the Human Rights Council (HRC) will be relevant to the future work of HRTBs. During its 48th session, the HRC recognized the right to a clean, healthy, and sustainable environment ([HRC resolution 48/13](#)). The right is already protected explicitly under the Convention on the Right of the Child and directly relevant to other UN human rights treaties. Thus, the HRTBs will have a critical role in guiding States in implementing and protecting this right. Another interesting development relates to establishing a new mandate of the UN Special Rapporteur on the promotion and protection of human rights in the context of climate change ([HRC resolution 48/14](#)). The new expert will further explore how climate change and human rights intersect and make recommendations to States and other stakeholders by preparing annual reports to the HRC and UN General Assembly, conducting country visits, and receiving communications, among other relevant activities. HRTBs and the new Special Rapporteur will have the opportunity to build on each other’s work to further clarify States’ human rights obligations in the context of climate change.

As the climate crisis accelerates, HRTBs should continue to build on their work on climate change and monitor and respond to the worsening climate-driven human rights crisis in 2022 and beyond. In particular, it would be helpful for the HRTBs to review the adequacy of States’ climate policies and to continue to articulate more specifically what the human rights obligations of States entail in the context of climate urgency. Such a process should include the heightened obligations that the States owe to specific segments of the population and the context of their duty to regulate private actors effectively. There may also be opportunities for the HRTBs to highlight States’ obligations to take action to prevent dangerous climate change through States’ pandemic recovery and stimulus initiatives, which are likely to be discussed in Dialogues between the HRTBs and States.

Table 1: List of HRTBs and the Rights and Principles Most Relevant to Climate Change

Name of the treaty body	Human rights treaty monitored	Relevant rights and principles
Committee on the Elimination of Discrimination Against Women (CEDAW)	Convention on the Elimination of All Forms of Discrimination Against Women	<ul style="list-style-type: none"> • Obligation to prohibit and eliminate discrimination against women (Article 2) and to ensure the full development and advancement of women (Article 3) • Right to participation (Article 7) • Rights of rural women (Article 14)
Committee on Economic, Social and Cultural Rights (CESCR)	International Covenant on Economic, Social and Cultural Rights	<ul style="list-style-type: none"> • Obligation to take steps towards full realization of ESC rights (Article 2) • Peoples' right of self-determination and to own means of subsistence (Article 1) • Rights to an adequate standard of living, including food, water, and housing (Article 11); to health (Article 12); and to science and culture (Article 15)
Committee on the Rights of the Child (CRC)	International Convention on the Rights of the Child	<ul style="list-style-type: none"> • Obligation to respect and ensure the rights of children and to eliminate discrimination against children (Article 2) and principle of best interests of the child (Article 3) • Rights to life (Article 6); freedom of expression (Article 13); health (Article 24); an adequate standard of living, including food, water, sanitation, and housing (Article 27); and education (Article 28)
Human Rights Committee (CCPR)	International Covenant on Civil and Political Rights	<ul style="list-style-type: none"> • Peoples' right of self-determination (Article 1) • Rights to life (Article 6), to expression (Article 19), to take part in public affairs (Article 25), and to culture (Article 27)
Committee on the Elimination of Racial Discrimination (CERD)	International Convention on the Elimination of All Forms of Racial Discrimination	<ul style="list-style-type: none"> • Prohibition of racial discrimination (Article 2) and obligation to eliminate racial discrimination in relation to all human rights (Article 5) • Right to remedy (Article 6)
Committee on the Rights of Persons with Disabilities (CRPD)	International Convention on the Rights of Persons with Disabilities	<ul style="list-style-type: none"> • Prohibition of discrimination against persons with disabilities (Article 4), obligation to consult • Rights to life (Article 10), education (Article 24), health (Article 25), and adequate standard of living (Article 29) • Obligation to protect persons with disabilities in situations of risk and natural disasters (Article 11)

Glossary of Acronyms

CAT	Committee Against Torture
CCPR	Human Rights Committee
CED	Committee on Enforced Disappearances
CEDAW	Committee on the Elimination of Discrimination Against Women / Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Committee on the Elimination of Racial Discrimination / Convention on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
CMW	Committee on Migrant Workers
COB	Concluding Observations
CRC	Committee on the Rights of the Child / Convention on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
GC	General Comment
GR	General Recommendation
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICRC	International Convention on the Rights of the Child
ICRPD	International Convention on the Rights of Persons with Disabilities
LDCs	Least Developed Countries
LOI	List of Issues
LOIPR	List of Issues Prior to Reporting
OPIC	Optional Protocol on Communications Procedure (under the Convention on the Rights of the Child)
SIDS	Small Island Developing States
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDROP	United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas
UNFCCC	United Nations Framework Convention on Climate Change

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

Taking the references to climate change as a proportion of all outputs to States by the HRTBs through the State reporting procedure (the [Committee on Economic, Social and Cultural Rights](#) (CESCR), the [Committee on the Rights of the Child](#) (CRC),

the [Committee on the Elimination of Discrimination Against Women](#) (CEDAW), the [Human Rights Committee](#) (CCPR), the [Committee on the Rights of Persons with Disabilities](#) (CRPD), the [Committee on the Elimination of Racial Discrimination](#) (CERD) and the [Committee on Migrant Workers](#) (CMW) – excluding the [Committee on Enforced Disappearances](#) (CED) and the [Committee Against Torture](#) (CAT) whose mandates are less relevant to this topic) in 2020 and 2021 combined, 46% of all outputs address climate change (123 out of 269).

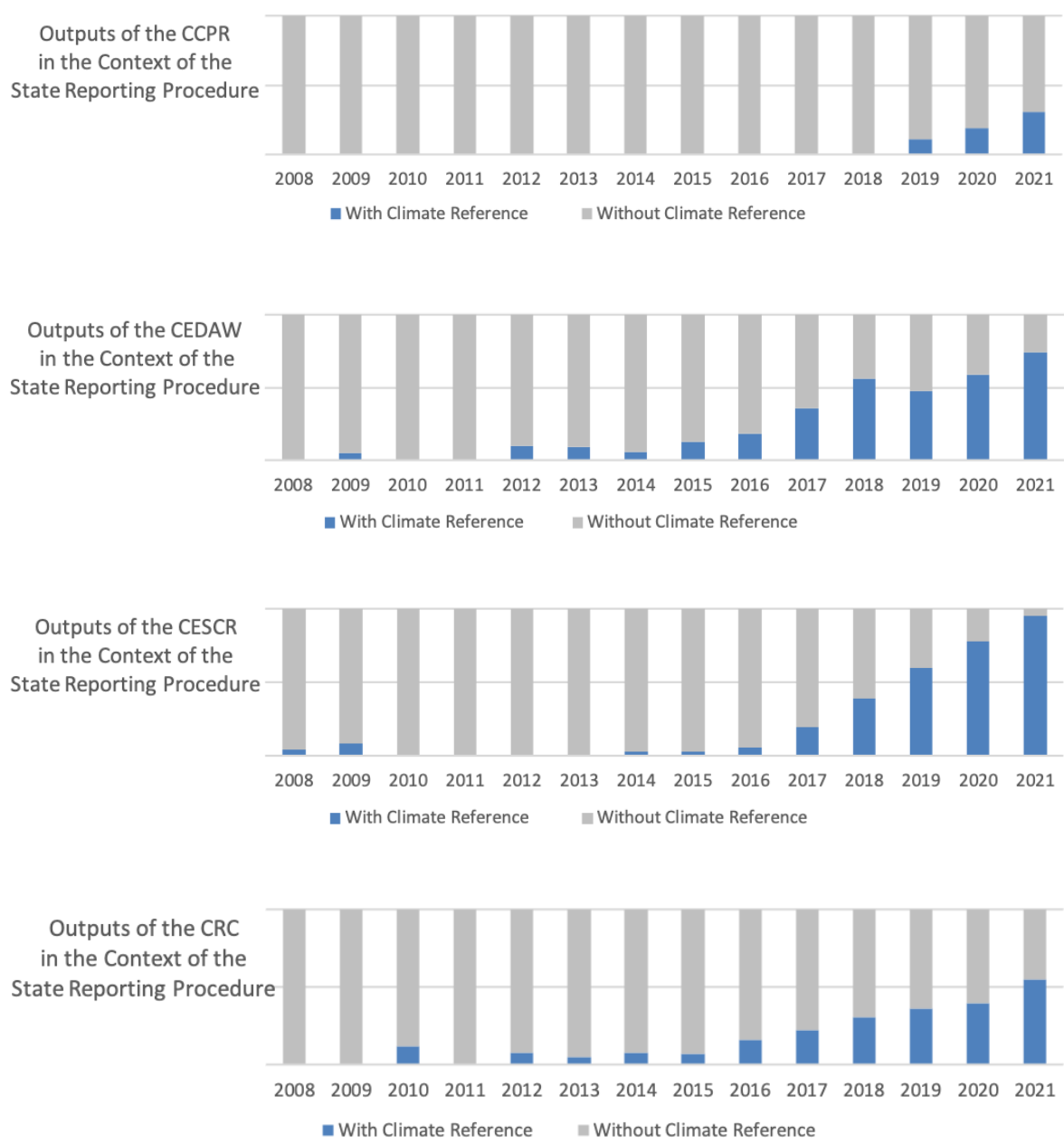


Figure 1: Outputs of the CCPR, CEDAW, CESCR, and CRC in the Context of the State Reporting Procedure

The HRTBs have demonstrated that they fully recognize that climate change is a pressing human rights issue and a key subject of their mandate. The CESCR, CRC, and CEDAW appear to be committed to systematically addressing relevant climate change considerations in their work. The other HRTBs are also gradually increasing their attention to the topic. For example, since the CCPR first addressed climate change in 2019, references have continued to rise in country reviews. Importantly, CCPR's 2020 and 2021 outputs show that their analysis of the human rights implications of climate change, and associated State obligations, are increasing in sophistication, while their recommendations are becoming more concrete and specific.

Remarkably, most committees are now addressing matters related to climate change with the same frequency with all categories of States under review – thus addressing States contributing more to climate change and those bearing most of the impacts in a more balanced manner. The parity with other topics demonstrates an evolution as treaty bodies had traditionally focused most of the interventions related to climate change on developing and climate-vulnerable States.

As a consequence of this greater engagement with all categories of countries, most of the Committees have addressed different dimensions of climate action more equally in their interactions with States. The Commit-

tees have, for instance, made some very strong recommendations to wealthy countries with regards to their obligations to mitigate harms by reducing emissions and tackling fossil fuel extraction. For example, they expressed concerns regarding the emissions reduction efforts and targets of countries like Austria and Belgium (CRC and CESCR, respectively). They also probed oil and gas developments and plans for renewable industries. Questions to Norway and Denmark centered on their policies for the extraction and/or export of oil and gas (CEDAW). At the same time, CESCR and CRC directed questions to Sweden on its policies for renewable energy electricity production and how it will ensure the on- and offshore activities of Swedish companies take account of the impacts of climate change on children. Issues of adaptation and disaster risk reduction continue to receive greater attention than mitigation issues in the outputs of the CEDAW.

Since 2020, 43 countries have received their first-ever recommendation or question on climate change from the HRTBs – including major economies such as Brazil, France, Indonesia, and South Africa. The broadened questioning confirms that the Committees are turning their attention beyond those countries most associated with climate change due to their vulnerability, such as Small Island Developing States (SIDS), which had received the majority of such recommendations and questions in the past. Out of the total

Outputs of the Human Rights Treaty Bodies in 2020 and 2021, by Country Category

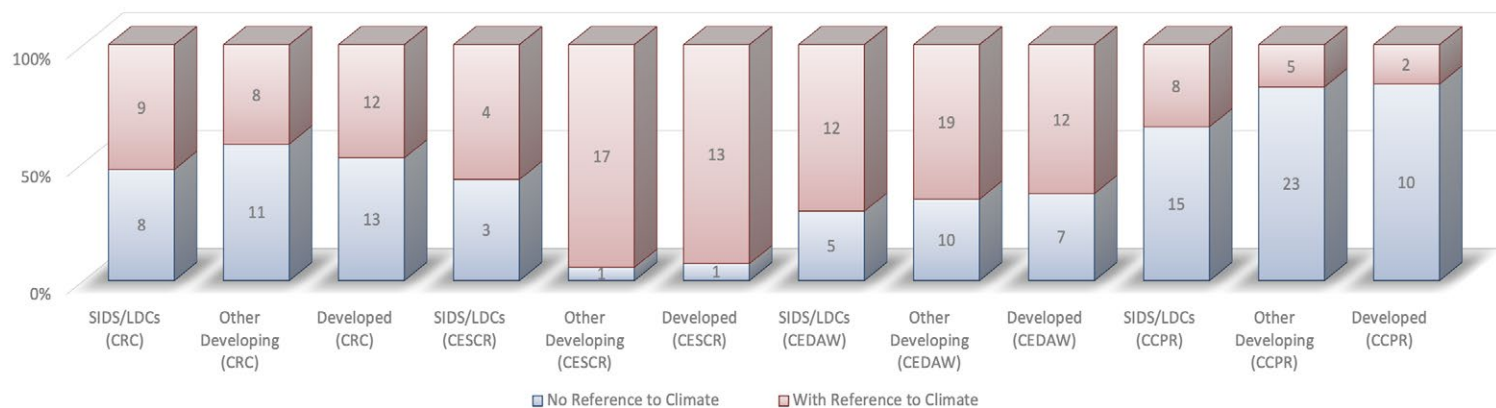


Figure 2: Outputs of the HRTBs in 2020 and 2021, by Country Category

Countries Reviewed by CEDAW, CERD, CESC, CCPR, and CRC in 2020/2021

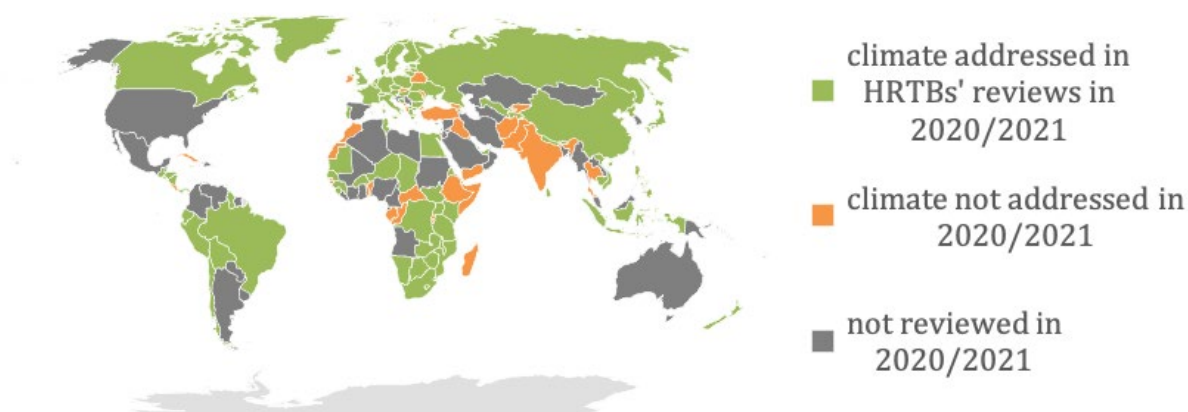


Figure 3: Countries Reviewed by CEDAW, CERD, CESC, CCPR, and CRC in 2020/2021

Climate-Related References in HRTB Reviews up to 2021

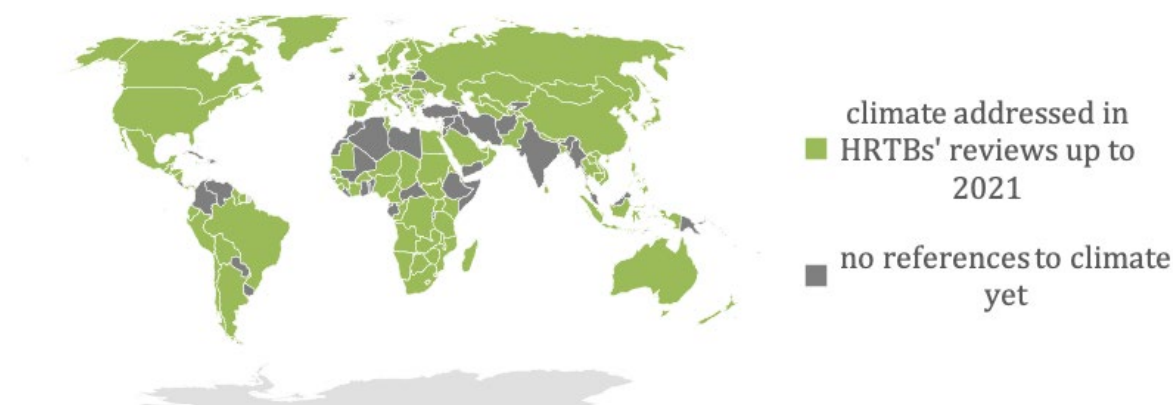


Figure 4: Climate-Related References in HRTB Reviews up to 2021

number of States reviewed in 2020 and 2021, 34 did not receive any climate recommendation, as Figure 3 shows.

Figure 4 shows those countries that have received at least one recommendation or question related to climate change up to 2021. So far, 146 States have

received at least one COB, LOI, or LOIPR that mentions climate change.

Unlike in previous years, the majority of the references to climate change in 2020 and 2021 were in the LOIs or LOIPRs to States (90 in total) rather than the COBs (33 in total), which can be explained by the

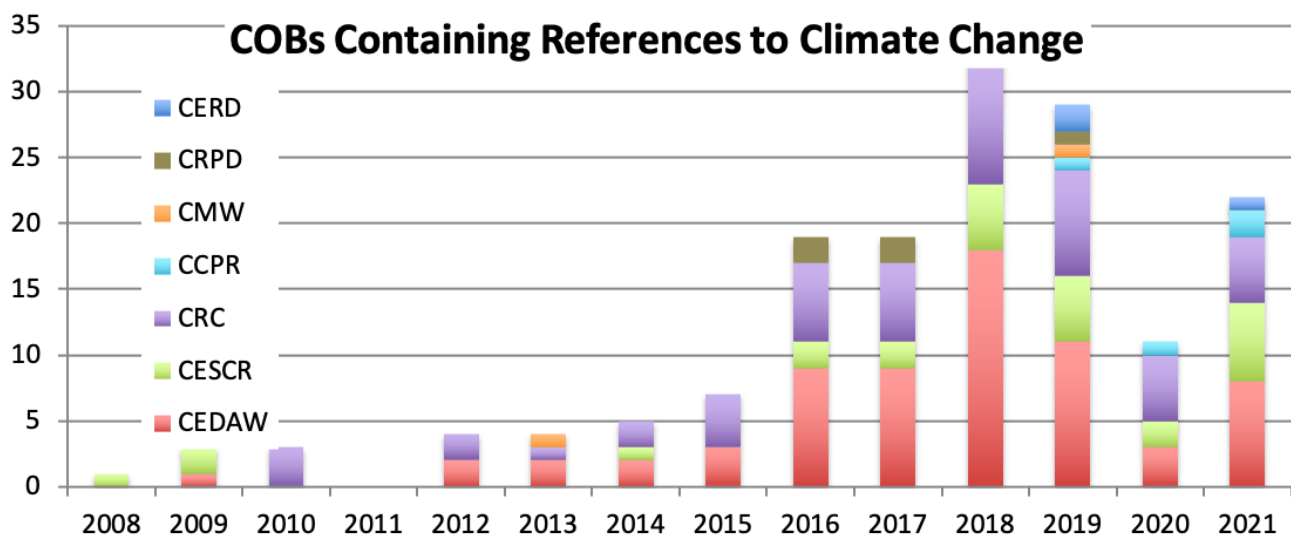
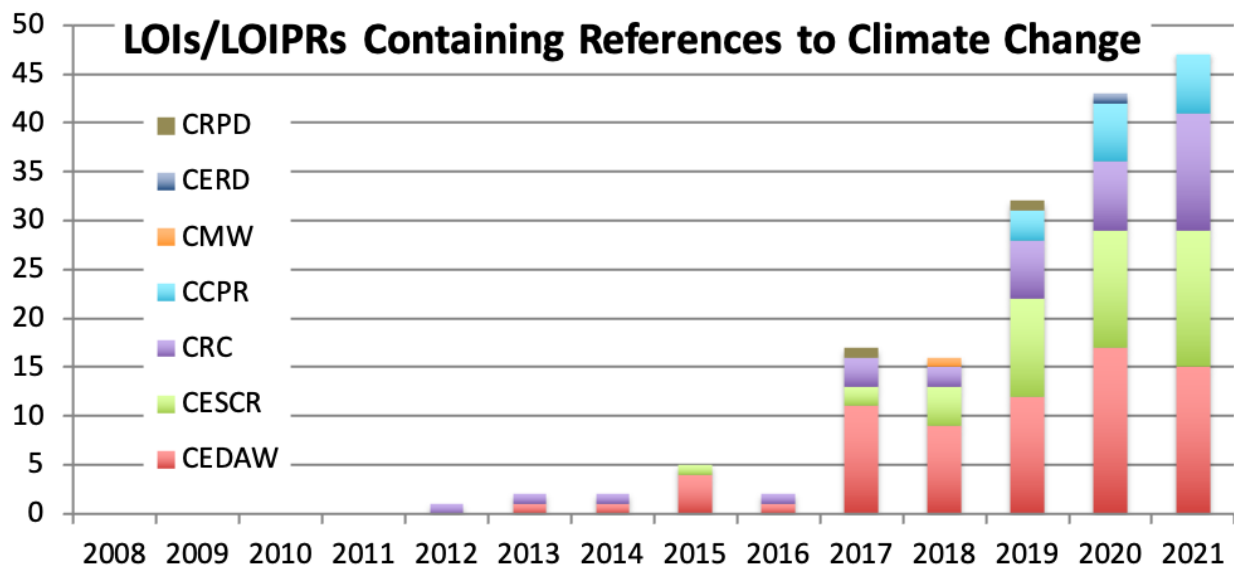


Figure 5: LOIs/LOIPRs and COBs Containing References to Climate Change

limited number of Dialogues with States held due to COVID. LOIs/LOIPRs are the lists of questions from the Committee to the State to provide guidance to States in preparing their reports and seeking further information for the Dialogue. The rise in LOIs and LOIPRs with climate mentions indicates that there will be a significant number of upcoming Dialogues between the HRTBs and States which will consider climate change in the coming years. As a result, one can expect a similar increase in the number of Con-

cluding Observations mentioning climate change in the near future.

State Reporting Procedure: Climate-Related Themes

In the outputs of the HRTBs under their State reporting procedures, several trends and themes have emerged, many of which were already highlighted in the [2019 Joint Statement by CESC, CEDAW, CRC](#).

Themes Addressed in the 2020/2021 Outputs of HRTBs

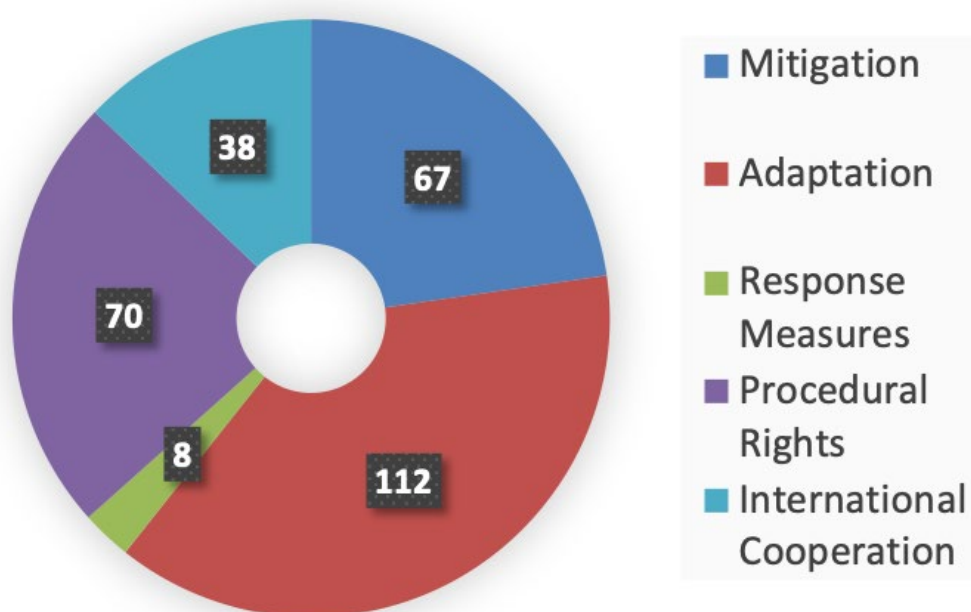


Figure 6: Themes Addressed in the 2020/2021 Outputs of the HRTBs

[CRPD](#), and [CMW](#). This section discusses those trends and themes, namely procedural rights, adaptation and disaster risk reduction, mitigation, international co-operation, fossil fuels, right to water, business actors, rights of people with disabilities, and racial and ethnic minorities. Figure 6 shows the macro-themes addressed across the HRTBs' outputs in 2020 and 2021.

Adaptation and Disaster Risk Reduction

Recommendations and questions on States' measures to assist their population in adapting to climate change and to reduce the risks of disasters remain the most common subject of climate-related outputs of the HRTBs. Often, the Committees refer to specific groups within the population which need particular protection, such as Indigenous Peoples and local com-

munities (e.g., 2020 CESCR LOIPR to Canada, 2021 CCPR LOIPR to Canada), ethnic minorities (e.g., 2020 CEDAW LOI to South Africa and CRC LOIPR to New Zealand, 2021 CRC LOIPR to Estonia), or more generally, to the most "vulnerable persons and communities or groups" (e.g., 2020 CCPR LOIPR to the Maldives, 2021 LOIPR to Nepal).

In 2020 and 2021, the HRTBs raised concerns or questions relating to adaptation and resilience in 112 outputs. As in previous years, the HRTBs were more likely to address recommendations and questions on adaptation to SIDS and other developing States. Committees followed the same trend in 2020 and 2021, where 79 outputs mentioning adaptation were addressed to SIDS, Least Developed Countries (LDCs), or other developing countries.

Right to Water

Another notable theme that appears to be emerging in the outputs of the HRTBs on climate change is the implications of climate change for the enjoyment of the right to water (legally protected by ICESCR art. 11, ICRC art. 24, CEDAW art. 14, CRPD art. 28, UNDRIP art. 25 and art. 32.2, and UNDROP art. 21), which ultimately has implications for the right to life (ICCPR art. 6). The impacts of climate change on access to water for domestic purposes are increasingly arising as an issue of concern for human rights experts in the HRTBs.

Water scarcity due to rising sea levels and salination of water sources in Kiribati was one of the severe impacts of climate change highlighted by the petitioner in his communication against New Zealand brought to the Human Rights Committee (discussed below). It is also a key complaint of the petitioners in the case brought to the CRC by 16 children against Argentina, Brazil, France, Germany, and Turkey. For example, the child petitioner from South Africa complained about the climate-induced drought in Cape Town, which led to the 2018 water crisis. The child petitioner from Tunisia described the drought and water shut-offs in Tabarka. The petitioner from the Marshall Islands explained how sea-level rise and flooding are contaminating freshwater sources, limiting access to drinking water and water for growing vegetables and cultural practices.

Between 2020 and 2021, concerns regarding access to water were raised in five Concluding Observations on climate change (CRC COB to Tuvalu, CRC COB to the Cook Islands, CEDAW COB to Kiribati, CESCROB to Azerbaijan, CRC COB to Eswatini), and 10 LOIs (2020 CESCROB to Chile, CESCROB to Italy, CEDAW LOI to South Africa, CEDAW LOI to Indonesia, CCPR LOIPR to Zimbabwe, CCPR and CRC LOIPRs to Zambia, and 2021 CRC LOIPR to Sierra Leone, CESCROB to Palestine, CEDAW LOI to Namibia, and CEDAW LOI to Uganda). In its recommendations to the Cook Islands, the CRC said it was concerned about the adverse impact of climate change and natural disasters on the rights of the child, including the rights to safe drinking water and sanitation. In its COB to Tuvalu, the same Committee raised concerns about “the contamination of underground water supplies owing to rising sea levels, which hinders access to safe drinking water and sanitation for children, including in schools.” The Human Rights Committee also asked Zimbabwe to “report on the measures taken to prevent and mitigate the negative effects of climate change and environmental degradation, particularly in relation to food and water security.” The need for States to uphold their obligations related to the right to water was also considered in the context of recommendations addressing the impacts of fossil fuels on the climate and the environment. In its LOI to Namibia, the CEDAW asked for information on “concrete measures taken to ensure that the authorization of oil and gas exploration and development in the Okavango region does not violate the rights of rural women and girls to access to clean water... considering the risks that oil drilling and fracking presents to water depletion, contamination and other pollution-related health hazards.”



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Procedural Rights: Participation and Empowerment

The participation of certain groups (particularly children and women) in climate policy and decision-making was one of the most frequently addressed themes in the outputs of the HRTBs in 2020 and 2021. This follows the trend in previous years where the CRC and CEDAW have regularly recommended that States ensure the meaningful participation of children and women in climate and disaster risk reduction processes and programs.

In 2020 and 2021, 70 outputs by the HRTBs mentioned participation in climate responses. Among those, the CRC, CEDAW, and CCPR made a total of 24 recommendations (COBs) to States regarding the meaningful and informed participation of citizens in the States' plans, projects, and decision-making on climate change and disaster risk. For instance, in 2020, the CEDAW recommended that Kiribati “[e]nsure the participation of women, including disadvantaged groups of women, in the implementation of climate change and disaster risk management initiatives,” including in the context of migration and women's employment opportunities abroad (CEDAW COB to Kiribati). CEDAW made similar recommendations to other State parties, for instance, Eritrea and Zimbabwe in 2020 and the Maldives and South Sudan in 2021, regarding women's meaningful involvement in the development of legislation, policies, and programs on climate change, disaster response, and risk reduction. This emphasis on women's participation builds on CEDAW's [General Recommendation No. 37 on the Gender-related dimensions of disaster risk reduction in the context of climate change](#), which strongly advocates for women's participation in climate policy making.

The CRC highlighted the importance of child participation in 23 of its 29 outputs to States addressing climate change in 2020 and 2021. For example, in 2020, it recommended that Hungary strengthen initiatives to increase child consultation and participation on national policy issues that affect them, including climate change. In its 2021 COB to Switzerland, the Committee recommended ensuring “that children's needs and views are systematically taken into account in developing policies and programmes addressing climate change.” For most of those States, the CRC also

emphasized the need for greater education for children relating to climate change and disaster risk reduction. For instance, it recommended that the Cook Islands, Tuvalu, Micronesia, Tunisia, Eswatini, and Poland incorporate information about climate change into their school curriculum.

The CCPR addressed the participation of specific groups in most of its climate-related outputs in 2020 and 2021. In its 2021 Concluding Observations to Kenya, the CCPR expressed concerns about the lack of “meaningful and informed participation of the population, including Indigenous Peoples, in projects that affect sustainable development and resilience to climate change” and recommended that the State party take steps to address that. Its 2020 LOIPR to Guyana and 2021 LOIPRs to Tanzania and Seychelles specifically asked about the State parties' measures to ensure “appropriate access to information on environmental hazards.”

Human Rights Obligations to Mitigate Climate Change

References to the reduction of emissions of greenhouse gases in COBs, LOIs, and LOIPRs increased in number from 2020 (27) to 2021 (40). Developed countries were more likely to receive a recommendation or question on mitigation than SIDS, LDCs, and other developing countries. However, a few developed countries received a recommendation or issue on climate change that did not specifically address mitigation (e.g., 2020 CRC COB to Hungary, CEDAW LOIPRs to Slovenia and Greece, 2021 CEDAW COB to Sweden, CESCROB to Finland). The imperative of tackling emissions of greenhouse gases has thus become a central focus of the majority of interactions between the HRTBs and developed States on matters related to climate change.

CESCROB made, for instance, two strong recommendations on mitigation to developed countries in 2020. The first recommended that Norway intensify its efforts to reduce its carbon emissions, promote renewable energy sources, and reconsider its decision to increase oil and natural gas exploitation in the Arctic and the Barents Sea. The second highlighted the need for Belgium to intensify its efforts to fulfill its greenhouse gas emissions commitments by revising its 2030

targets “so as to be consistent with the commitment to limit the temperature increase to 1.5°C,” and adopting the necessary measures to implement the EU Strategy to transition to a net-zero greenhouse gas emissions economy by 2050. Furthermore, it invited Canada to provide information regarding “measures taken to improve the effectiveness of energy taxation to facilitate saving energy and using renewable energy.”

Also, CEDAW referred to specific emission reduction benchmarks in its 2021 LOI to Uganda when it requested information “on progress in achieving Uganda’s pledge to reduce greenhouse gas emissions by 22 percent by 2030.”

The CRC devoted particular attention to State parties’ duty to reduce emissions. For instance, in 2021, 16 out of 17 climate-related outputs mentioned mitigation. In its COB to Switzerland, the CRC recommended that it “reduce greenhouse gas emissions in line with the State party’s international commitments and ensure that the Federal Council strategy of net zero emissions by 2050 is implemented in accordance with the principles of the Convention.” It also looked at specific sectors, recommending that Switzerland “conduct an assessment of policies and practices related to the aviation and transport sectors and the impacts of the resulting atmospheric pollution and greenhouse gas emissions on children’s rights.”

Several HRTB outputs highlighted deforestation as an important measure to mitigate climate change. In 2020, the CCPR, in its LOIs to Indonesia, requested information on efforts to reduce deforestation, the CRC asked Zambia for information regarding measures taken to reduce deforestation and land degradation, and CERD asked Guyana to provide information on deforestation caused by mining activities. In 2021, in its recommendation to Bolivia, the CESCR expressed concern about the State party’s lack of implementation of its Nationally Determined Contribution concerning the forestry sector. The CESCR also asked Brazil about measures to reach its 2021 environmental targets “given the rising levels of deforestation and carbon emissions” and requested information on “the impact of measures taken to reduce deforestation, particularly in the Amazon,” as well as measures to restore areas affected by illegal logging. The CRC, in its 2021 issue to Sierra Leone on climate change,

requested information on measures taken to mitigate deforestation and address illegal logging.

Deforestation had been addressed only rarely in previous years by the HRTBs. This increased focus on the issue is particularly welcome in light of the aggravating direct and indirect impacts of deforestation on the rights of Indigenous Peoples and local communities, in addition to the irreversible loss of biodiversity and the worsening of the climate crisis.

Fossil Fuel Extraction, Exports, and Consumption

For a number of years, the HRTBs have raised concerns about the implications for human rights of the extraction of fossil fuels and the associated carbon emissions. The HRTBs have insisted that from the perspective of human rights, assessments must consider extraction and export of oil, gas, and carbon into States’ efforts to reduce their carbon emissions. The HRTBs have also drawn attention to the other human rights harms occasioned by fossil fuel extraction, such as air, land, and water pollution impacting the right to health and impacts on access to land, livelihoods, and cultural rights of local communities. In 2020 and



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2021, nine climate-related Concluding Observations addressed fossil fuels (2020 CESCR COB to Norway; 2021 CEDAW COBs to Ecuador, Denmark, and South Africa; CESCR COBs to Bosnia-Herzegovina and Azerbaijan; and CRC COBs to Switzerland, Czech Republic, and Poland) received a recommendation and 17 States – namely Guyana (CCPR), South Africa (CEDAW and CRC), Norway (CEDAW), Chile (CESCR), Guatemala (CESCR), Poland (CRC), São Tomé and Príncipe (CCPR), Namibia (CEDAW), China (CESCR), Uganda (CEDAW), Cambodia (CESCR), Tanzania (CCPR), Peru (CRC), Ecuador (CRC), Qatar (CESCR), Chad (CESCR), and Bulgaria (CRC) – were asked a question by the HRTBs regarding fossil fuel extraction or consumption.

In 2020, the CESCR recommended that Norway “reconsider its decision to increase oil and natural gas exploitation and take its human rights obligations as a primary consideration into its natural resource exploitation and export policies.” It also asked Guatemala about how it “reconciles its energy production sector, its policy on extractive industries” with its commitments under the Paris Agreement on climate change. With regards to fossil fuels consumption, the CESCR stressed the need for Italy to provide information describing specifically “concrete measures taken to address the inconsistency between its emission reduction targets and the continued use of fossil fuels.”

In a very detailed question, in 2020, the CERD asked Guyana to provide information on “measures taken to address the effects of climate change, oil and gas production, and deforestation caused by mining activities” on Indigenous communities. Further, it asked about efforts to guarantee the participation of Indigenous Peoples in oil and gas production decision-making that affects them and whether the State party has established a mechanism to ensure that the profits from oil and gas production benefit all ethnic groups.

The CEDAW’s 2021 LOIs to Namibia and Uganda contained particularly strong language on ongoing oil and gas exploration and extraction. The Committee requested information from Namibia on “concrete measures taken to ensure that the authorization of oil and gas exploration and development in the Okavango region does not violate the rights of rural women



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and girls to access to clean water, food and health considering the risks that oil drilling and fracking presents to water depletion, contamination and other pollution-related health hazards; (b) measures taken to ensure that climate change and energy policies, and specifically the policy on the extraction and export of oil and gas, including through fracking, take into account the differentiated and disproportionate impact of climate change on women, especially rural and indigenous women; (c) steps taken to undertake environmental and human rights assessments regarding the impacts of the oil and gas exploration activities, particularly on women and girls, and to adopt appropriate mitigation and protections measures.”

On coal, the CRC recommended that Poland “phase out the funding of coal-fired power plants and accelerate the transition to renewable energy.” This COB followed the CRC’s 2020 LOI to Poland about the measures taken to reduce the pollution from extracting and burning coal and increase awareness about the harm to children’s health and the adverse impact on the climate.

States' Obligation to Regulate Business Actors Effectively

States have a positive obligation to regulate the activities of private actors effectively, including business entities, to ensure effective protection against human rights violations linked to business activities (CESCR, [General Comment No. 24 \(2017\) on State obligations under the ICESCR in the context of business activities](#); CCPR, [General Comment 36 \(2018\) on the right to life](#)). This obligation extends to human rights harms outside a State's territory due to the activities of a business entity domiciled within its territory. In its General Comment, the CESCR explains: "The extra-territorial obligation to protect requires States parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control..."

Five HRTBs explained the application of this obligation in their Joint Statement on human rights and climate change: "States must regulate private actors, including by holding them accountable for harm they generate both domestically and extraterritorially. States should also discontinue financial incentives or investments in activities and infrastructure that are not consistent with low greenhouse gas emissions pathways, whether undertaken by public or private actors, as a mitigation measure to prevent further damage and risk."

This important state obligation highlighted by the HRTBs in their Joint Statement has not received growing attention in their State reporting procedure. While in 2020, only four States received a question or a recommendation from the HRTBs regarding the regulation of private actors, this number rose to 15 in 2021. In 2020, the CCPR asked about the Maldives' measures for "preventing and addressing, including through regulation of the public and private sectors, the current and foreseeable future effects of climate change and environmental degradation which represent existential threats within the State party." Despite having recognized the obligation of States to regulate private actors concerning transboundary impacts explicitly (General Comment No. 36), in 2020 and 2021, the CCPR failed to highlight this obligation

when monitoring the developed States that host the most significant transnational fossil fuel and climate-polluting companies.

In three outputs, the CRC highlighted the importance of ensuring that private and publicly owned fossil fuel companies consider the impact of climate change on the rights of the child (2020 LOIPR to Sweden, and 2021 LOIPRs to Sierra Leone and South Africa). In its 2021 LOIPR to São Tomé and Príncipe, the CCPR asked to provide information on measures to prevent and address climate change, "including through regulation of the public and private sectors."

CEDAW's question to Norway is interesting as it addressed State-owned companies, requesting the State party to provide information on measures to ensure that the activities of those companies take into account the differentiated and disproportionate impact of climate change on women. Finally, the CRC recommended that Austria review policies related to the transportation sector to eliminate any subsidies contributing to the promotion of modes of transportation undermining children's right to the highest attainable standard of health.

In its issues to Uganda concerning oil exploration, CEDAW requested information on "mechanisms in place, including legislation, state monitoring and standards, to hold oil companies accountable for their CO2 emissions, which contribute to the climate crisis and increased disaster risk with deleterious effects on the economy and the rural and urban poor."

Up to 2020, only the CRC and CESCR had addressed State parties' human rights obligations to regulate financial actors so as to discontinue investments in industries particularly harmful to the climate (2019 CRC's LOIPR to Switzerland and CESCR's COB to Switzerland). In 2021, the CESCR and CRC did so with more specificity concerning China and Switzerland, respectively. The CESCR requested information on measures taken "to ensure that the overseas extractive activities operated by business entities domiciled in China, including State-owned enterprises, and the transnational investment projects financed by investment banks of the State party do not hinder the efforts of host countries to mitigate the adverse impact of climate change." In its COB to Switzerland, the

CRC expressed concern about the “disproportionately high carbon footprint of the State party, in particular through investments made in fossil fuels by its financial institutions.” It recommended ensuring “that private and publicly owned financial institutions take into consideration the implications of their investments upon climate change and the resulting harmful impacts on children, including introducing regular monitoring and evaluation of financial institutions with regard to their investment activities and adopting binding rules for these institutions.”

International Cooperation and Climate Finance

International cooperation is crucial for effectively mitigating and adapting to climate change, particularly for climate-vulnerable developing countries. According to the Organisation for Economic Co-operation and Development (OECD), developed countries remain well behind on providing USD 100 billion per year in climate finance to developing countries by 2020. Further, most climate finance is provided as loans rather than grants, leaving SIDS, LDCs, and developing countries indebted as they struggle to mitigate and adapt to climate change. Only a minority of this funding is made available for adaptation action, thereby limiting the support available for frontline communities to safeguard their rights from the existing

impacts of climate change. This financing gap will have serious implications for protecting rights in developing countries already facing climate-induced loss and damage, including climate-induced disasters and slow-onset impacts on rights to health, livelihoods, water, and life.

In their Joint Statement on climate change and human rights, the HRTBs highlighted the human rights obligations of States concerning climate finance, based on States’ obligations of international cooperation contained in the ICESCR.

Nevertheless, developed States’ human rights obligations of international cooperation have received less attention from the HRTBs, including in 2020 and 2021, when 19 outputs addressed the topic of climate finance (7% of those related to climate).

The CESCR is the Committee that addressed climate finance the most in 2020 and 2021. It asked the Czech Republic, France, Sweden, and Canada (in 2020) and Qatar and Portugal (in 2021) about their contributions to the Green Climate Fund, thereby putting climate finance on the agenda for discussion during the forthcoming Dialogue with those States. In 2021, it recommended that Finland “step up its efforts to meet the internationally agreed target of official development assistance of 0.7 per cent of gross national income” and that “ensure that its contribution to the Green Climate Fund is over and above the current



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level of official development assistance and is not to the detriment of development assistance in other areas.”

In 2020, the CRC recommended that both the Cook Islands and Tuvalu “[s]eek bi-lateral, multi-lateral, regional and international cooperation in implementing these recommendations” (CRC COBs to Tuvalu). In 2021, the CEDAW recommended that Denmark “consider participating in the Adaptation Fund...including through financial contributions, with the aim of mainstreaming gender in climate finance.”

Racial and Ethnic Minorities and Intersectionality

Several HRTBs focused attention on the impacts of climate change and the need for consultation with racial and ethnic minorities and Indigenous Peoples. For example, CEDAW emphasized the participation of Indigenous, Afro-descendant, and ethnic minority women in decision-making processes on climate change in Brazil and Chile and that of disadvantaged women in Kiribati. In its 2021 COB to Denmark, it recommended that the “State party conduct a study

on the gender-specific impact of climate change on women in Greenland, in particular women dependent on traditional Inuit livelihoods, and report on the results of the study in its next periodic report.” The CRC asked New Zealand whether policies on climate change and disaster risk reduction take into account the views of Maori and Pasifika children. CESCR’s LOIs to Canada and Sweden focused on the impacts of climate change on Indigenous Peoples’ economic, social, and cultural rights. The CCPR asked Canada to “include specific information about targeted measures to address the impact of climate change on the food security of indigenous communities” and to ensure “inclusive processes for the participation of civil society groups and the public, including women ... indigenous peoples and rural communities, when developing and implementing legislation and policy on climate change.”

The CERD only made one climate-related output in 2020 and one in 2021. In a detailed LOI to Guyana, CERD asked about measures to address the effects of climate change on Indigenous communities. Questions centered on strengthening the participation, consultation, and inclusion of Indigenous Peoples in decisions that may have a detrimental impact on their communities and whether Guyana has established a mechanism to ensure that the profits from oil and gas production benefit all ethnic groups without discrimination. Its COB to the Netherlands focused on the impact of climate change on Dutch Caribbean islands and the inadequate measures to support affected communities.

Rights of Persons with Disabilities

The Committee on the Rights of Persons with Disabilities (CRPD) has raised concerns in its State reporting work about the impacts of climate change on the rights of persons with disabilities and the importance of the participation of persons with disabilities in planning and policy making on climate change and disaster risk reduction. Between 2016 and 2019, it made recommendations to six States regarding climate change (CRPD 2016 COBs to Bolivia and Guatemala, 2017 COBs to Honduras and Panama, 2018 COB to Seychelles, and 2019 COB to Australia); it did not raise climate change in its outputs in 2021 or 2020.



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However, two other HRTBs did raise questions or concerns with States regarding the rights of persons with disabilities in the context of climate change. CEDAW asked St. Vincent and the Grenadines and the Netherlands to provide information on the participation of women with disabilities in the design and implementation of climate and disaster risk reduction programs. Similarly, in 2020, the CRC asked Mauritius to provide information on measures to “ensure that the special vulnerabilities and needs and views of children, including children with disabilities,” are taken into account in policies and programs concerning climate change and disaster risk management. In 2021, it asked Estonia and the UK to provide information on measures to ensure the participation of children with disabilities in environmental and climate-related processes to ensure that their views are taken into account. In its 2021 LOIPR to Canada, the CCPR asked to provide information on “inclusive processes for the participation of civil society groups and the public, including... persons with disabilities... when developing and implementing legislation and policy on climate change.”

Individual Communications

Although the Human Rights Committee’s decision in *Teitiota v. New Zealand* was decided during the HRC November 2019 session (2728/2016), it was published at the beginning of 2020. *Teitiota v. New Zealand* is the first decision by any HRTB directly addressing climate change. The [case concerned](#) a claim by a Kiribati family who had sought asylum in New Zealand on the grounds that the significant impacts of climate change on life in Kiribati will endanger their right to life (ICCPR art. 6) should they return to the island. The Teitiota family argued that rising sea levels, serious flooding, scarcity of land and associated land disputes, salination of drinking water sources, and destruction of crops, thereby depriving them of a means of subsistence, together posed a threat to their right to life. They contended that these climate-induced threats amounted to a real risk of irreparable harm to their lives in violation of Article 6 of the ICCPR, engaging New Zealand’s obligations of non-refoulement.

While accepting the author’s claims that Kiribati would be uninhabitable within 10 to 15 years, the Committee found that Kiribati was taking adaptive measures



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to address the impacts of climate change, and there was sufficient time for it to do more to protect the author's right to life. It ultimately rejected the author's petition but stated that the effects of climate change could violate the right to life and trigger non-refoulement obligations on deporting States. It noted that States should continue to assess the data regarding the impacts of climate change and rising sea levels: "given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized."

The CCPR released its decision on another communication in 2021, *Pereira Benega v. Paraguay* (2552/2015). The case concerned a claim by two members of the Campo Agua'e Indigenous Community over the contamination of their traditional land and watercourses due to the illegal use and disposal of toxic pesticides by nearby commercial farms. The Committee found that Paraguay had failed to control and stop the illegal polluting activities adequately, thus violating Articles 2, 17, and 27 of the ICCPR (respectively protecting the right to effective remedy, private and family life, and cultural life). Additionally, three members of the Committee also suggested in a [concurring opinion](#) that a violation of the right to life protected under Article 6 of the Covenant was manifest in this case. A more extended analysis is available in the section on the CCPR below.

While this case does not concern climate change explicitly, it still provides an important precedent, namely, in the interpretation of the right to private and family life and to cultural life as protected under the ICCPR and the State's positive and negative obligations to respect and protect it, which will be relevant in the context of climate change.

The communication *Torres Strait Islanders v. Australia* (3624/2019) before the Human Rights Committee is still pending.

In 2021, the Committee on the Rights of the Child decided the communication *Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey* (104/2019, 105/2019, 106/2019, 107/2019, 108/2019). In 2019, 16 children had filed a petition to the CRC against

the abovementioned States, claiming that those State parties violated their rights under the Convention on the Rights of the Child, as they made insufficient cuts to greenhouse gases and failed to curb the emissions of the world's biggest emitters. The petitioners asked the Committee to declare that the respondents caused and perpetuated the climate crisis, thus violating their rights. The Committee considered whether it would have jurisdiction under Article 5 of the [Optional Protocol on a Communications Procedure](#). Its reasoning provides useful elements for future climate-related cases, particularly concerning States' responsibility for their actions or omissions concerning climate change, including extraterritorially. The Committee concluded that the authors had sufficiently justified "that the impairment of their Convention rights as a result of the State party's acts or omissions regarding the carbon emissions originating within its territory was reasonably foreseeable," and that they enjoyed the victim status as they "experienced a real and significant harm." Thus, the Committee noted that it had jurisdiction under Article 5(1) of the Optional Protocol. It, however, deemed the claim inadmissible on procedural grounds, as it considered that the claimants had not exhausted domestic remedies, which Article 7 of the Optional Protocol requires. The Committee wrote an [Open Letter](#) to the authors, with a simplified explanation. In this letter, the CRC stated, "we want you to know that the Committee spent many hours discussing your case, and we struggled with the fact that although we entirely understood the significance and urgency of your complaint, we had to work within the limits of the legal powers given to us under the Optional Protocol on a Communications Procedure (OPIC)." A more extended analysis is available in the section on the CRC below.

It is important to note that more and more cases are being brought to courts and tribunals arguing that inadequate (or non-existent) State action on climate change breaches the State's human rights obligations at the national and regional levels. The jurisprudence and work of the HRTBs can inform the interpretation of human rights norms concerning climate change in those cases before the national and regional courts and tribunals. A number of cases and communications brought to national and international courts and institutions reference the work of the HRTBs.

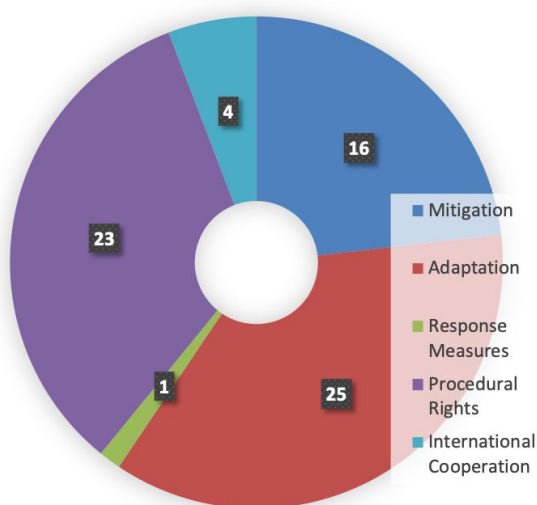
Children's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Rights of the Child (2022 Update)



This note reviews the outputs of the Committee on the Rights of the Child (CRC) related to climate change in 2020 and 2021 and complements our [previous note](https://bit.ly/CRCclimate2020) dedicated to such outputs up to 2019 (bit.ly/CRCclimate2020).

Themes Addressed in the 2020/2021 Outputs of the CRC



Outputs of the CRC in 2020 and 2021, by Country Category

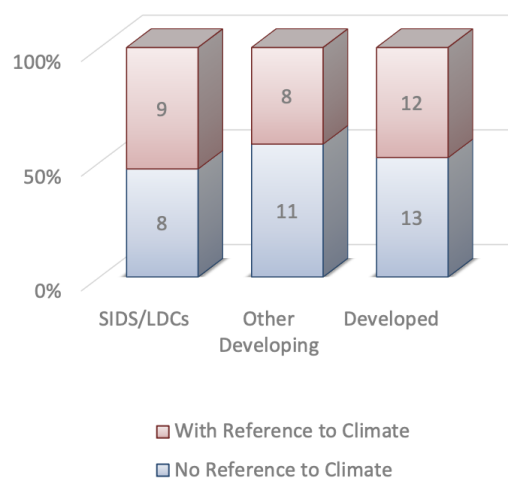


Figure 1 (left): Themes Addressed in the 2020/2021 Outputs of the CRC

Figure 2 (right): Outputs of the CRC in 2020 and 2021, by Country Category

In the past six years, the Committee on the Rights of the Child (CRC) has increasingly raised concerns about the impacts of climate change on children's rights in its State reporting procedure and its General Comments and thematic work. Despite the challenges presented by the COVID-19 pandemic and the move to online work in 2020 and 2021, the Committee continued to highlight climate change concerns in its questions and recommendations to States.

The CRC referred to climate change in 29 State review processes – in either Concluding Observations (COBs), Lists of Issues (LOIs), or Lists of Issues Prior to Reporting (LOIPRs) – in 2020 and 2021, out of a total of 61 outputs.

Contrary to its previous practice of raising climate change more frequently in the review of Small Island Developing States (SIDS)/Least Developed Countries (LDCs) and developing States (18 in total), the CRC addressed the matter with both developed and developing countries in a balanced manner over the last two years. The CRC raised the issue in 11 reviews undertaken in 2020 and 2021.

In relation to the themes addressed by the CRC in 2020 and 2021, the Committee followed the trend from previous years of paying great attention to issues of adaptation (25 references) and of participation and empowerment of children in climate change policy making and initiatives (23 references).

The Committee paid increased attention to States' obligations to **mitigate** climate change. While in 2020, this was addressed in relation to four countries (LOI to Zambia, LOIPR to Sweden, LOI to Poland, and COB to Austria), in 2021, it was raised in 12 outputs (four COBs and eight LOIs/LOIPRs). For example, in 2020, the Committee asked Sweden to provide information on its measures to reduce greenhouse gas emissions and to make electricity production from 100% renewable sources. The Committee asked Sweden to describe its measures to ensure that "the activities of private and publicly owned companies, both onshore and offshore, in particular companies in the fossil fuel industry, take into consideration the impact of climate change on the rights of the child." The Committee recommended that Austria "conduct an assessment of policies related to the transportation

sector and the impacts of resulting atmospheric pollution and emissions of greenhouse gases on children's rights" as well as "eliminate any subsidies contributing to the promotion of modes of transportation undermining the rights of children to the highest attainable standard of health." In 2021, it recommended that Poland "[a]dopt urgent mitigation measures in line with greenhouse gas emission targets and deadlines compliant with the international commitments set forth in the Paris Agreement" and "[p]hase out the funding of coal-fired power plants and accelerate the transition to renewable energy." In its COB to Switzerland, the Committee recommended that the State party reduce its emissions in line with its international commitments and "ensure that the Federal Council strategy of net zero emissions by 2050 is implemented in accordance with the principles of the Convention," including by looking at the aviation and transport sector. Further, the Committee raised States' obligations of international cooperation relating to climate change in recommendations or questions to four States in 2020 and 2021. In its COBs to both Tuvalu and the Cook Islands, after recommending a series of concrete measures to address the risks to children's rights posed by climate change, the Committee recommended



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that the State “[s]eek bi-lateral, multi-lateral, regional and international cooperation in implementing these recommendations.”

The Committee devoted increased attention to financial and business actors’ contribution to environmental harm. In 2021, 11 outputs referred to those actors, compared to only one in 2020. In its Concluding Observations to Switzerland, the Committee expressed concern about the State party’s high greenhouse gas emissions, “in particular through investments made in fossil fuels by its financial institutions.” It recommended ensuring “that private and publicly owned financial institutions take into consideration the implications of their investments upon climate change and the resulting harmful impacts on children, including introducing regular monitoring and evaluation of financial institutions with regard to their investment activities and adopting binding rules for these institutions.”

With regard to the duty to regulate private actors, in its 2021 LOIPR to South Africa, the Committee requested information on the measures taken “[t]o ensure that the activities of private and public companies, in particular companies in the fossil fuel industry, take into consideration the impact of climate change on the rights of the child.”

In 2020, and perhaps in response to the increasingly strong child and youth mobilizations and advocacy on climate change and the environment, the Committee

resolved to revive its **Working Group on children’s rights and the environment**. This is an internal group of five members of the Committee. They will focus their attention on this topic to ensure that it receives the appropriate attention in the Committee’s work. In 2021, the Committee announced that it would start working on its next **General Comment on children’s rights and the environment with a special focus on climate change**, addressing substantive, procedural, and heightened obligations owed to children. As the Committee’s [Concept Note](#) explains, the General Comment will first look at children’s rights and the environment, addressing issues related to environmental pollution, loss of biodiversity, and climate change, potentially through the lens of four general principles: non-discrimination; best interests; the right to life, survival, and development; and the views of the child. Then, it will focus on specific thematic issues on climate change, informed by “the science around climate change and its effects on children’s rights.” The Committee will undertake consultations with children, State parties, and experts from relevant fields in 2022.

Individual Communications

In 2021, the CRC decided the case [Sacchi et al. v. Argentina, Brazil, France, Germany, and Turkey](#) (104/2019, 105/2019, 106/2019, 107/2019, 108/2019). In 2019, 16 children filed a petition to the CRC against Argentina, Brazil, France, Germany, and Turkey, claiming that those State parties violated their rights under the Convention on the Rights of the Child, as they made insufficient cuts to greenhouse gases and failed to curb the emissions of the world’s biggest emitters. The petitioners asked the Committee to declare that the respondents caused and perpetuated the climate crisis, thus violating their rights. The Committee considered whether it would have jurisdiction under Article 5 of the Optional Protocol. Its reasoning provides valuable elements for future climate-related cases, particularly with regard to States’ responsibility for their own actions or omissions in relation to climate change, including extraterritorially.

The Committee explained that “when transboundary harm occurs, children are under the jurisdiction of the State on whose territory the emissions originated for the purposes of article 5 (1) of the Optional



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Protocol if there is a causal link between the acts or omissions of the State in question and the negative impact on the rights of children located outside its territory, when the State of origin exercises effective control over the sources of the emissions in question.” Interestingly, the Committee built its reasoning on extraterritorial jurisdiction upon the Inter-American Court of Human Rights’ Advisory Opinion OC-23/17 on the Environment and Human Rights. The Committee further noted that there is enough scientific evidence about the effects of climate change and that “the potential harm of the State party’s acts or omissions regarding the carbon emissions originating in its territory was reasonably foreseeable to the State party.” It added that State parties have effective control over the sources of climate-inducing emissions. Then, it addressed the causal link between the harm alleged by the petition authors and the State party’s actions or omissions to establish jurisdiction. The Committee concluded that the authors had sufficiently justified “that the impairment of their Convention rights as a result of the State party’s acts or omissions regarding the carbon emissions originating within its territory was reasonably foreseeable,” and that they “experienced a real and significant harm.” Thus, the Commit-

tee noted that it had jurisdiction under Article 5(1) of the Optional Protocol.

The Committee, however, deemed the claim inadmissible on procedural grounds, as it considered that the claimants had not exhausted domestic remedies, which is required by Article 7 of the [Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure](#). The Committee wrote an [Open Letter](#) to the authors, with a simplified explanation of the case. In this letter, the CRC stated, “we want you to know that the Committee spent many hours discussing your case, and we struggled with the fact that although we entirely understood the significance and urgency of your complaint, we had to work within the limits of the legal powers given to us under the Optional Protocol on a Communications Procedure (OPIC).”

It is important to note that more and more cases are being brought to courts and tribunals arguing that inadequate (or non-existent) State action on climate change is a breach of the State’s human rights obligations at the national and regional levels. The jurisprudence and work of the HRTBs can inform the



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interpretation of human rights norms with respect to climate change in those cases before the national and regional courts and tribunals. A number of cases and

communications brought to national and international courts and institutions reference the work of the HRTBs.

On the Frontlines of Climate Impacts: Samoa Hosts the First Regional Session of the CRC

The CRC held an extraordinary session in Apia, Samoa, in March 2020. This was the first time that a human rights treaty body had held a session in-country. The Committee held three Dialogues with States from the region (the Cook Islands, Micronesia, and Tuvalu) and developed the LOI for Kiribati. Since the session was located in the Pacific, a region already severely affected by climate impacts such as sea-level rise and more frequent damaging storms, climate change was a central topic throughout the session. It was discussed at each of the Dialogues with States and during a dedicated event on the challenges and opportunities of climate justice with 11 youth activists from the Pacific region. This session offered a unique opportunity for members of the Committee to meet a wide range of governmental actors and representatives of civil society stakeholders and see the impacts of climate change first-hand.



PHOTO FROM THE CRC'S SESSION IN APIA, SAMOA, IN MARCH 2020 © UN PHOTO/ALVARO HOYOS



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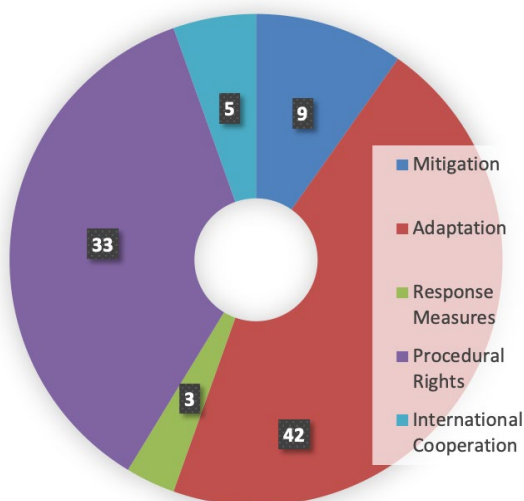
Women's Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on the Elimination of Discrimination Against Women (2022 Update)



This note reviews the outputs of the Committee on the Elimination of Discrimination Against Women (CEDAW) related to climate change in 2020 and 2021 and complements our [previous note](https://bit.ly/CEDAWclimate2020) dedicated to such outputs up to 2019 (bit.ly/CEDAWclimate2020).

Themes Addressed in the 2020/2021 Outputs of the CEDAW



Outputs of the CEDAW in 2020 and 2021, by Country Category

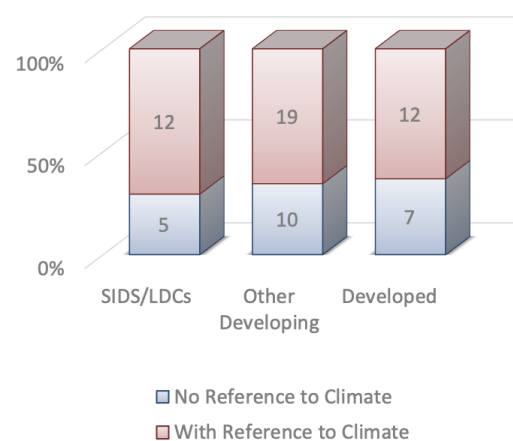


Figure 1 (left): Themes Addressed in the 2020/2021 Outputs of the CEDAW

Figure 2 (right): Outputs of the CEDAW in 2020 and 2021, by Country Category



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The Committee on the Elimination of Discrimination Against Women (CEDAW) was the human rights treaty body (HRTB) that addressed climate change most frequently in its State reporting procedure work in 2020 and 2021. It made climate-related recommendations or asked climate-related questions to more than half of the States that it considered in 2020 and 2021 (20 out of 34 total outputs in 2020, and 23 out of 31 in 2021). One-third of the climate-related recommendations or questions addressed developed countries.

The Committee continued its significant focus on the participation of women in climate and disaster risk reduction processes, programs, and policy making (e.g., Jamaica, Lebanon, and Greece), often recalling the CEDAW’s [General Recommendation No. 37 on the gender-related dimensions of disaster risk reduction in the context of climate change](#). In relation to Japan, it included an interesting question requesting specific “data on the proportion of women among the members of the Central Disaster Management Council” and “on the proportion of women among the members of the disaster management councils of local governments.” The CEDAW also often asked States to provide data and indicate the steps they were taking to ensure the participation of particular groups of women. For example, the CEDAW asked Indonesia to “specify any measures taken to ensure the participation of indigenous, rural and poor women in decision-making processes related to climate change and to land and resource management.” Similarly, the CEDAW was attentive to the differential impacts of

climate change on different groups of women. The Committee asked South Africa to explain how it is addressing the impact of disasters and climate change on rural women, poor women, and women belonging to ethnic minorities. Similarly, the Committee requested that Brazil specify what measures it is taking to ensure the effective participation of Indigenous women and women belonging to ethnic minorities, such as Afro-descendant women.

The CEDAW also regularly asked States whether they integrated a gender perspective into their framework for climate change adaptation and disaster risk reduction (e.g., Japan, Azerbaijan, and Nicaragua).

The CEDAW continued to address adaptation much more than mitigation in its issues and recommendations. In fact, in 2020 and 2021, all but one output referred to adaptation, while only nine mentioned mitigation.

While mitigation-related Lists of Issues (LOIs) and Lists of Issues Prior to Reporting (LOIPRs) are limited in number, some of them are particularly significant, as they refer to oil and gas extraction. The Committee’s 2020 LOI to Norway asked the State party to report on oil and gas extraction and export and activities of related State-owned companies. The CEDAW had already expressed concern about Norway’s “continuing and expanding extraction of oil and gas in the Arctic” in its 2017 Concluding Observations (COB). In its 2021 LOI to Namibia, the CEDAW requested

information on measures taken “to ensure that the authorization of oil and gas exploration and development in the Okavango region does not violate the rights of rural women and girls to access to clean water, food and health considering the risks that oil drilling and fracking presents to water depletion, contamination and other pollution-related health hazards,” as well as “to ensure that climate change and energy policies, and specifically the policy on the extraction and export of oil and gas, including through fracking, take into account the differentiated and disproportionate impact of climate change on women, especially rural and indigenous women.” It also requested information on “steps taken to undertake environmental and human rights assessments regarding the impacts of the oil and gas exploration activities ... and to adopt appropriate mitigation and protections measures.” In its 2021 LOI to Uganda, it requested that the State party describe “the mechanisms in place, including legislation, state monitoring and standards, to hold oil companies accountable for their CO2 emissions,” in the context of oil extraction. The CEDAW’s 2021 COB to Denmark recommends that the State party “review its energy and mining policies, especially its policy on the extraction of carbon and mineral resources in Greenland,” in order to ensure that they do not disproportionately adversely affect women.

Other mitigation-related outputs focused on the State parties’ duty to ensure that climate and energy policies protect women’s rights and/or take into account the differentiated and disproportionate impact of climate change on women (e.g., 2020 LOIs to Norway, Brazil,

and Japan) and on the duty to meaningfully involve women in the policy making process (e.g., 2021 COBs to Ecuador, South Africa, and South Sudan).

In 2021, the CEDAW published the draft [General Recommendation on the rights of indigenous women and girls](#). It aims to provide guidance to States on the measures they should take to ensure full compliance with their obligations under the Convention to respect and protect the rights of Indigenous women and girls. The Committee held the day of [general discussion](#) in June 2021 to collect inputs for the General Recommendation. The current draft refers to climate change throughout the text. It contains a series of recommendations to State parties to ensure “that laws and policies related to the environment, climate change, and disaster risk reduction reflect the specific impacts of climate change and other forms of environmental degradation and harm, including the triple planetary crisis,” and that Indigenous women and girls can meaningfully and effectively participate in relevant decision-making processes and exercise their free, prior, and informed consent. It also recommends “that effective remedies and accountability mechanisms are in place to hold the authors of environmental harm responsible, and ensure access to justice for indigenous women and girls in environmental matters.” Finally, it recommends ensuring the safety and support of Indigenous women human rights defenders engaged in advocacy for environmental protection and climate justice. The Committee will hold consultations on the draft in early 2022 before the CEDAW finalizes this General Recommendation.



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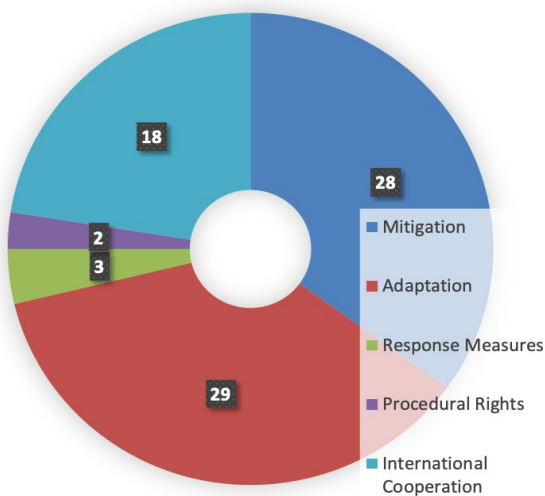
Economic, Social, and Cultural Rights Obligations of States in the Context of Climate Change

Synthesis of Statements on Climate Change by the Committee on Economic, Social and Cultural Rights (2022 Update)



This note reviews the outputs of the Committee on Economic, Social and Cultural Rights (CESCR) related to climate change in 2020 and 2021 and complements our [previous note](https://bit.ly/CESCRclimate2020) dedicated to such outputs up to 2019 (bit.ly/CESCRclimate2020).

Themes Addressed in the 2020/2021 Outputs of the CESCR



Outputs of the CESCR in 2020 and 2021, by Country Category

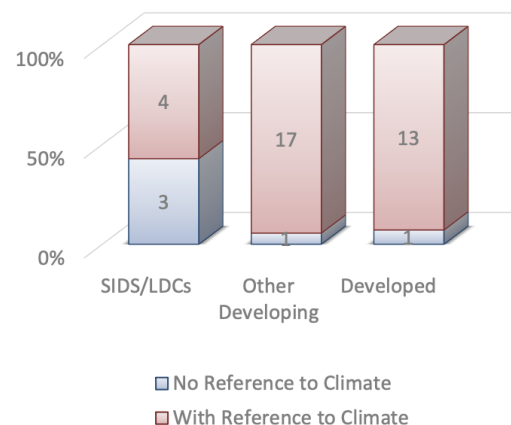


Figure 1 (left): Themes Addressed in the 2020/2021 Outputs of the CESCR

Figure 2 (right): Outputs of the CESCR in 2020 and 2021, by Country Category

In 2020, the Committee on Economic, Social and Cultural Rights (CESCR) made recommendations and asked questions addressing climate change to 14 of the 18 States it considered. In 2021, the Committee referenced climate change in 20 out of 24 total outputs. This means that the CESCR referenced climate change in 81% of its outputs under the State reporting procedure in 2020 and 2021. In 2020, unlike most of the other HRTBs, the majority of those outputs were made to developed States (eight outputs). In 2021, all five developed States that were reviewed received climate-related questions or recommendations.

Over 2020 and 2021, the Committee addressed State parties' **mitigation policies** in 30 outputs, although to varying degrees. Many mitigation-related outputs made explicit reference to State parties' climate commitments under the United Nations Framework Convention on Climate Change (UNFCCC) — the so-called Nationally Determined Contributions (NDCs) (e.g., 2020 Concluding Observations (COB) to Norway, Lists of Issues Prior to Reporting (LOIPRs) to Canada and France, and List of Issues (LOI) to Uzbekistan, and 2021 COBs to Azerbaijan, Latvia, and Kuwait). Three COBs included specific references to emissions reduction targets (2020 COBs to Norway

and Belgium and 2021 COB to Latvia), encouraging States to increase the ambition of their targets and their measures to meet those targets. For instance, in its recommendation to Latvia, the CESCR noted with concern that the State party was not on track to meet its NDC under the Paris Agreement and recommended taking measures “for the implementation of its transition to a net-zero-greenhouse gas emissions economy by 2050.” In its COB to Norway, the Committee recommended increasing efforts to “reduce emissions by at least 50 percent and towards 55 percent compared to 1990 levels by 2030.”

In most of its Issues put forward in 2020 and 2021, the Committee asked States to provide information on measures taken to implement national climate targets. In some instances, the Committee pointed out the incompatibility of the State parties' current policies with regard to their obligation to take action to mitigate climate change. In its 2020 LOI addressed to France, the Committee asked the State to provide information regarding its mitigation policies “in view of the delay in reducing its carbon dioxide emissions.” The CESCR stressed the need for Italy to provide information specifically describing “concrete measures taken to address the inconsistency between its emission reduction targets and the continued use of fossil fuels.”



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The CESCR tackled **extractive activities** in its 2020 outputs to Norway and Guatemala and its 2021 outputs to China, Cambodia, Qatar, Chad, and Azerbaijan. For instance, in its COB to Norway, the Committee expressed concern about “the licenses issued in recent years by the State party for the exploration and exploitation of petroleum and natural gas reserves in the Arctic and the Barents Sea and their impact on global warming.” The Committee also recommended that Norway ensure that its human rights obligations are a primary consideration in its natural resource exploitation and export policies. In its 2021 LOI to China, the CESCR requested information on the measures taken “to ensure that the overseas extractive activities operated by business entities domiciled in China, including State-owned enterprises, and the transnational investment projects financed by banks of the State party do not hinder the efforts of host countries to mitigate the adverse impact of climate change.”

In its 2021 COB to Azerbaijan, the CESCR noted that oil and gas accounted for 90% of the State party’s export revenues and 98% of its own energy needs, and that the State party was not on track to meet its climate target under the Paris Agreement. Thus, the Committee recommended “that the State party intensify its efforts to achieve its nationally determined contributions under the Paris Agreement and to reduce its greenhouse gas emissions, in particular by promoting alternative and renewable energy sources and respecting its human rights obligations in its natural resource exploitation and export policies.”

The Committee referred to **climate finance** in nine outputs (2020 COB to Norway, LOIPR to Canada, LOIs to France, Luxembourg, Sweden, and the Czech Republic, and 2021 COB to Finland and LOIs to Qatar and Portugal), addressing the State parties’ contributions to the Green Climate Fund and/or development assistance.

Almost all of the CESCR’s LOIs in 2020 and 2021 (24 out of 26 in total) requested information from State parties on **adaptation** measures. In some cases, the Committee made explicit reference to vulnerable groups, for instance: minorities (Sweden), Indigenous Peoples (Canada), and the “most disadvantaged and marginalized groups” (Chile).



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In 2020, the CESCR issued its General Comment No. 25 (2020) on science and economic, social and cultural rights (Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights (see the text box on the following page).

In 2021, the CESCR published its draft [General Comment on Land and Economic, Social and Cultural Rights](#). Climate concerns are featured in various sections of the draft, most notably in Section IV.F, which is dedicated solely to the nexus between land and climate change. This section considers the impact that the climate emergency will have on access to land and the relationship between land and measures designed to adapt and mitigate the effects of climate change. The draft also addressed the extraterritorial obligations of States, for instance, in the context of potentially harmful impacts on rights related to land in the context of climate and energy policies. The Co-Rapporteurs will review the contributions and revise the draft, which will then be presented to the Committee for further consideration and subsequent adoption.

The Committee is also in the process of developing a [General Comment on Sustainable Development and the International Covenant on Economic Social and Cultural Rights](#). The Committee hosted regional

workshops on this General Comment in the Americas, Africa, and Europe, and further consultation with children is planned to take place in April 2022.

CESCR's General Comment No. 25 (2020) on Science and Economic, Social and Cultural Rights (Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights)

In 2020, the CESCR published [General Comment No. 25 \(2020\)](#), which specified the content of the “right to enjoy the benefits of scientific progress and its applications,” among other rights. While the General Comment only once explicitly refers to climate change, the “right to science” is very relevant to climate change and to measures taken to address it. For example, this right has implications for the importance of developing and sharing adaptation technologies and assessing the dangers and risks associated with potential geoengineering initiatives advanced as solutions. The Committee established that States have a core obligation to “adopt mechanisms aimed at aligning government policies and programs to the best available, generally accepted scientific evidence” and “to promote accurate scientific information and refrain from disinformation, disparagement, or deliberate misinforming of the public, so as to erode citizen understanding and respect for science and scientific research.” The CESCR also looked at the private sector, stating that States must “ensure that private actors do not disseminate false or misleading scientific information” and “ensure that private investment in scientific institutions is not used to unduly influence the orientation of research or to restrict the scientific freedom of researchers.” Importantly, the General Comment also stressed that States need to “ensure that people have access to basic education and skills necessary for the comprehension and application of scientific knowledge” and to “promote accurate scientific information,” including on climate change.



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Cover image: DIPAYAN BOSE via Climate Visuals Countdown

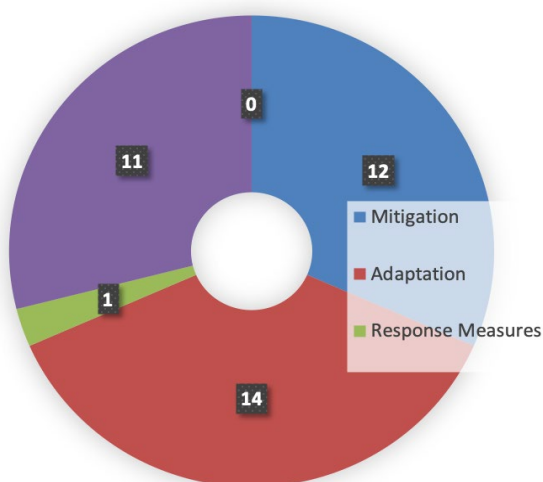
Human Rights Obligations of States in the Context of Climate Change

The Role of the Human Rights Committee (2022 Update)



This note reviews the outputs of the Human Rights Committee (CCPR) related to climate change in 2020 and 2021 and complements our [previous note](https://bit.ly/CCPRclimate2020) dedicated to such outputs up to 2019 (bit.ly/CCPRclimate2020).

Themes Addressed in the 2020/2021 Outputs of the CCPR



Outputs of the CCPR in 2020 and 2021, by Country Category

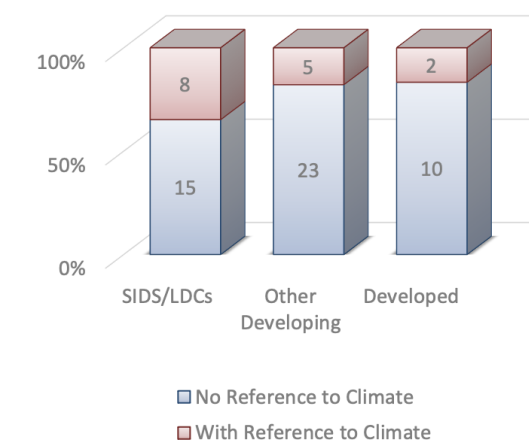


Figure 1 (left): Themes Addressed in the 2020/2021 Outputs of the CCPR

Figure 2 (right): Outputs of the CCPR in 2020 and 2021, by Country Category

The Human Rights Committee (CCPR) has only recently begun to address the issue of climate change in its work, starting in 2019. Since then, the Committee has increased the number of recommendations and questions to States in which it addressed climate change, from four in 2019 to seven in 2020 and eight in 2021. Due to the disruption caused by the COVID-19 pandemic, the CCPR's total number of outputs decreased in 2021 (from 37 in 2020 and 36 in 2019 to only 26 in 2021). Only one of the Concluding Observations (COBs) issued in 2020 and two issued in 2021 contained references to climate change. The majority of climate-related references in 2020 and 2021 were found in the Lists of Issues (LOIs) or Lists of Issues Prior to Reporting (LOIPRs) of the CCPR.

All of the CCPR's outputs on climate change in 2020 were made to Small Island Developing States (SIDS) or developing countries. In 2021, this trend shifted slightly, as the Committee addressed a recommendation to Germany and an issue to Canada.

In 2020 and 2021, the CCPR addressed issues of mitigation, adaptation, and procedural rights relatively evenly in its outputs on climate change. For instance, it asked Kenya, the Philippines, Guyana, Indonesia, Zimbabwe, Fiji, Nepal, and São Tomé to provide information about efforts to prevent and mitigate the effects of climate change and environmental degradation on vulnerable populations. The Committee addressed the issue of public participation in climate-related policy making in its questions to the Maldives in 2020, and to Nepal, São Tomé and Príncipe, Seychelles, and Tanzania in 2021, and in its recommendations to Dominica in 2020 and Kenya in 2021. In its 2021 LOIPR to Nepal, the Committee addressed the State's duty to regulate private actors, as it requested information on "measures aimed at preventing and addressing, including through regulation of the public and private sectors, the current and foreseeable future effects of climate change and environmental degradation." In its 2021 COB to Germany, the Committee took note of a [March 2021 ruling by the Federal Constitutional Court](#), which found that Germany's Climate Change Act was unconstitutional, as the emission levels it would allow until 2030 may endanger the fundamental rights of future generations. The Committee recommended that the State party take all necessary steps to follow the ruling.

The CCPR looked at fossil fuel extraction in three outputs. In its 2020 LOIPR to Guyana, the Committee requested "information on the steps taken to prevent and mitigate the negative effects of climate change and environmental degradation, particularly as a consequence of gold mining and offshore oil production," and to "respond to concerns that large-scale oil extraction significantly increases greenhouse gas emissions, causes ocean acidification and sea level rise, and adversely affects the most vulnerable groups in the State party." In its 2021 LOIPR to Tanzania, it requested information "on the measures taken to prevent and mitigate the negative effects of climate change and environmental degradation, particularly in relation to the use of natural resources," and requested that the State party "respond to concerns about the negative local and global impacts of the construction of the East Africa Crude Oil Pipeline on climate change as well as on the livelihood of the population residing in the affected areas." In its LOIPR to São Tomé and Príncipe, it requested information on efforts to protect vulnerable persons from the negative impacts of climate and natural disasters, "including in relation to managing the exploitation of oil resources."

Individual Communications

In January 2020, the Human Rights Committee published its decision in the case *Teitiota v. New Zealand* (2728/2016). This case questioned whether New Zealand violated a family's right to life by refusing asylum despite the threats that climate change would pose to this family's life upon their return to their homeland in Kiribati. The Committee found that climate-related threats in Kiribati constituted a "real predicament" for the communicants and consequently found the communication admissible. On the merits, the Committee ruled that, while Kiribati would be uninhabitable within 10 to 15 years, this timeframe afforded the government sufficient time to take affirmative action to protect the rights of its population. Based on this argument, the Committee found that New Zealand had not breached its obligations regarding non-refoulment. The Committee nevertheless recognized that, in the absence of adequate climate action, the impacts of climate change will accelerate, causing real threats to Articles 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR) and triggering the obligation of non-refoulment. In two dissenting

opinions, two members of the Committee contested the reasoning of the majority, arguing that the Committee had taken too restrictive a view of the scope of the positive obligations of the responding States, with regards to the burden of proof and the threshold of the threat triggering the obligation of non-refoulement.

A second communication related to climate change, *Torres Strait Islanders v. Australia* (3624/2019), remains pending.

The CCPR released its decision on another communication in 2021, *Pereira Benega v. Paraguay* (2552/2015). The case concerned a claim by two members of the Campo Agua'e Indigenous Community, in their own right and on behalf of their community, over the contamination of their traditional land and waterways due to the illegal use and disposal of toxic pesticides by nearby commercial farms. The claimants argued that this violated their home and that the State had consequently breached its obligations under Articles 17 (private and family life), 27 (cultural life), and 2 (effective remedy) of the ICCPR.

Concerning the right to private and family life, the Committee recalled that Article 17 also implies an obligation to adopt positive measures to ensure effective respect for this right concerning interference by State authorities and by natural or legal persons. Concerning the right to cultural life, the Committee recalled that Article 27 must be interpreted in relation

to the United Nations Declaration on the Rights of Indigenous Peoples, enshrining the inalienable right of Indigenous Peoples to enjoy the territories and natural resources that they have traditionally used for their food subsistence and cultural identity. Thus, as Paraguay had failed to control and stop the illegal polluting activities adequately, it violated Articles 17 and 27 of the ICCPR. The Committee also found a violation of the right to remedy, under Article 2(3) of the Covenant, due to the delays in the domestic investigations, which did not make it possible to provide reparation for the damage suffered. Additionally, three Committee members suggested in a [concurring opinion](#) that a violation of the right to life protected under Article 6 of the Covenant was manifest in this case.

While this case does not concern climate change, it still provides an important precedent in interpreting the negative and positive obligations of the States to prevent environmental threats to the right to private and family life and cultural life as protected under the ICCPR. The *Pereira Benega v. Paraguay* precedent will inform the future interpretation of the scope of the obligations provided under the ICCPR, with regards to the duty of States to prevent climate-induced threats to civil and political rights, as well as to ensure that its policies – for instance in relation to so-called clean energy projects – do not further undermine these rights.



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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.



The Global Initiative
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As governments and intergovernmental organizations have recognized, climate change has adverse impacts on a wide range of human rights. Consequently, existing human rights obligations defined under legally binding treaties must inform climate action. These obligations require that climate policies effectively protect the rights of those most affected by the climate crisis. They also require that the design of these policies builds on the principles of non-discrimination and meaningful public participation.

Human rights treaty bodies (HRTBs) — established to monitor the implementation of the United Nations human rights treaties — have a critical role to play in further elaborating on the obligations of States to respect, protect, and fulfill human rights in the context of climate change. During the past decade, these bodies have provided many valuable recommendations to States illustrating the relevance of international human rights obligations in driving ambitious (and just) climate policies.

This Synthesis Note reviews the outputs adopted by HRTBs in 2020 and 2021 with regard to climate change, complementing our 2019 Synthesis Note, which provided an overview of all relevant HRTBs' outputs adopted up until that point in time. The HRTBs faced unique circumstances in 2020 and 2021, as the COVID-19 pandemic affected their operations and made it extremely challenging for the HRTBs to host in-person sessions. Despite this and the growing priority given to addressing public health matters, the HRTBs continued to address the obligations of States in the context of climate change with increasing frequency, particularly through the State reporting process.

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