



CENTER for INTERNATIONAL
ENVIRONMENTAL LAW



Global Initiative
for Economic, Social
& Cultural Rights

Human Rights Committee (CCPR)

Synthesis of Statements on Climate Change

2023 Update



This note reviews the outputs of the CCPR related to climate change in 2022 and complements our [previous note](https://bit.ly/CCPRclimate2022) dedicated to such outputs up to 2021 (bit.ly/CCPRclimate2022).

In 2019, the Human Rights Committee (CCPR) addressed climate change in its State review process for the first time. Since then, the Committee has steadily increased the number of Concluding Observations (COBs), Lists of Issues (LOIs), and Lists of Issues Prior to Reporting (LOIPRs) addressing climate change. Between 2019 and 2021, the number of inputs jumped from four in 2019 to seven in 2020 and eight in 2021. In 2022 however, there was a sharp decline, with only one LOI and one COB referring explicitly to climate change. This is despite the fact that the Committee issued the same number of outputs through the State reporting process in 2022 as it did in 2021.

In its COB to the Philippines, the Committee welcomed the State party's policy measures to address climate change, but regretted "the lack of information on measures taken or envisaged to implement the recommendations of the Commission on Human Rights in its [2022 report of the National Inquiry on Climate Change](#), concerning the impact of climate change on the human rights and the role of business corporations." It urged the Philippines to implement the recommendations of the Commission on Human Rights, "such as enacting laws that impose legal liabilities for corporate or business-related human rights abuses." It also recommended that "all projects that affect sustainable development and resilience to climate change are developed with the meaningful consultations with and participation of the affected population, including the indigenous peoples."

In its LOI to Brazil, the Committee requested information "about the efforts made to prevent and mitigate the effects of climate change and environmental degradation...including on the right to life." It also asked about relevant legal and institutional frameworks in place to prevent and mitigate the effects of climate change, as well as "about the efforts made to reduce carbon emissions, including further investment in sustainable energy sources."

The CCPR is the only HRTB that significantly reduced the attention paid to issues related to climate change through the State review process in 2022. This trend is surprising given that the CCPR had addressed climate change and environmental harms in its [General comment No. 36 on article 6: right to life](#) in 2018, which raised expectations that these issues would be addressed more systematically in its work.

Individual Communications

In September 2022, the CCPR published its decision in the case [Billy et al. v. Australia](#) (3624/2019). The Torres Strait petitioners claimed that their islands would become uninhabitable in 10–15 years. They argued that Australia had violated their rights under article 2 (right to non-discrimination), read alone and in conjunction with articles 6 (right to life), 17 (right to home, private life, and family life) and 27 (right to culture); and articles 6, 17 and 27, each read alone, by failing "to implement an adaptation programme to ensure the long-term habitability of the islands," as well as by failing "to adopt mitigation measures to reduce greenhouse gas emissions and cease the promotion of fossil fuel extraction and use." The petitioners also claimed violations of the rights of Mr. Billy's six children under article 24 (1) (rights of the child), read alone and in conjunction with articles 6, 17, and 27.

The Committee considered the case admissible for the claims under articles 6, 17, 24 (1), and 27, but not under article 2. It further explicitly stated that it was not precluded from examining the State party's actions and omissions related to mitigation measures. The Committee did not find that article 6 of the Covenant had been violated, as "the time frame of 10 to 15 years, as suggested by the authors, could allow for intervening acts by the State party to take affirmative measures to protect and, where necessary, relocate the alleged victims." It further noted that the information provided by the State party indicated that Australia was taking adaptation measures "to reduce existing vulnerabilities and build resilience to climate change-related harms in the Islands." The Committee stated that it was "not in a position to conclude that the adaptation measures taken by the State party would be insufficient so as to represent a direct threat to the authors' right to life with dignity."

The Committee found that Australia violated articles 17 and 27 by failing to take adequate, timely adaptation measures to protect the authors' home, private life and family, as well as "the authors' collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and sea resources." The Committee did not deem it necessary to examine the claim under article 24 (1), as it had already found a violation of articles 17 and 27.

The Committee asked Australia to provide full reparation, which included “provid[ing] adequate compensation, to the authors for the harm that they have suffered; engag[ing] in meaningful consultations with the authors’ communities in order to conduct needs assessments; continu[ing] its implementation of measures necessary to secure the communities’ continued safe existence on their respective islands; and monitor[ing] and review[ing] the effectiveness of the measures implemented and resolv[ing] any deficiencies as soon as practicable.” It added that the State party is also under an obligation to take steps to prevent similar violations in the future. The CCPR further asked Australia to provide information within 180 days regarding the measures taken to respect the Committee’s decision.

This case is groundbreaking, as it is the first decision by a human rights treaty body that establishes the State party’s duty to protect people under its jurisdiction from the impacts of climate change and refers to the obligation to provide effective remedy. At the same time, the Committee decided not to address the second part of the claim, relating to violations arising from the State party’s failure to reduce effectively GHG emissions.

In their individual opinion, Committee member Duncan Laki Muhumuza stated that the State party did violate article 6, as it “failed to prevent a foreseeable loss of life from the impact of climate change,” and did not take “any measures to reduce greenhouse gas emissions and cease the promotion of fossil fuel extraction and use, which continue to affect the authors and other islanders, endangering their livelihood.” Similarly, Committee member Gentian Zyberi’s concurring opinion stressed that “the Committee should have linked the State obligation to “protect the authors’ collective ability to maintain their traditional way of life, to transmit to their children and future generations their culture and traditions and use of land and

sea resources” more clearly to mitigation measures, based on national commitments and international cooperation — as it is mitigation actions which are aimed at addressing the root cause of the problem and not just remedy the effects. If no effective mitigation actions are undertaken in a timely manner, adaptation will eventually become impossible.” A similar point was raised in the partially dissenting opinion by Committee members Arif Bulkan, Marcia V. J. Kran, and Vasilka Sancin. They claimed that “the ‘real and foreseeable risk’ standard employed by the majority interprets article 6 restrictively,” while the evidence provided by the claimants did provide a “reasonably foreseeable threat,” constituting a violation of article 6.



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