



CENTER for INTERNATIONAL
ENVIRONMENTAL LAW



Global Initiative
for Economic, Social
& Cultural Rights

Committee on the Elimination of Racial Discrimination (CERD)

Synthesis of Statements on Climate Change

2023 Update



This note reviews the outputs of the CERD related to climate change in 2022 and complements our [previous note](https://bit.ly/CERDclimate2022) dedicated to such outputs up to 2021 (bit.ly/CERDclimate2022).

While the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) does not refer to the environment or to natural resources, the Committee on the Elimination of Racial Discrimination (CERD) highlighted in its [General Recommendation No. 34 \(2011\) regarding Racial discrimination against people of African descent](#) 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.” In 2019, the Committee began to specifically consider the linkages between climate change and States’ obligations under the Convention.

In 2022, the CERD issued three Concluding Observations (COBs) mentioning climate change, out of twenty-six total outputs. Its COB to the United States addressed in detail the issue of oil and gas leases and climate change in the State party. The Committee expressed concern “at the disproportionate health, socioeconomic and cultural impact of climate change, natural disasters and pollution — the latter caused by extractive and manufacturing industries, such as petrochemical facilities and methanol complexes, as, for instance, in the case of ‘Cancer Alley’ in Louisiana, and by radioactive and toxic waste — on racial and ethnic minorities and indigenous peoples.”

The Committee recommended that the United States take adequate measure to “undertake prompt, independent and thorough investigations into all cases of environmentally polluting activities affecting the rights of racial and ethnic minorities and indigenous peoples, bring those responsible to account and provide effective remedies for the victims,” as well as “consider adopting moratoriums on the authorization of new heavy industry facilities and the expansion of existing ones, such as petrochemical plants.” It further recommended that the State party protect historical sites of cultural significance for ethnic minorities

and Indigenous Peoples communities “from harm by extractive and manufacturing industries.” It expressed concern about the adverse effects of economic activities by US-registered transnational corporations on the rights of minority groups and Indigenous Peoples in other countries, and recommended that the United States take appropriate measures to prevent such situations.

In its COB to France, the Committee recommended taking measures, in consultation with the affected Indigenous Peoples in overseas territories, to remedy the health and environmental consequences of extractive activities, as well as mitigation measures for the effects of climate change on their territories and resources, in order to protect their way of living and subsistence.

Finally, the Committee recommended that Cameroon “[a]dopt measures to mitigate the impact of climate change on the lands, territories and resources of indigenous peoples with a view to protecting their customs and traditional ways of life, while preventing intercommunal conflicts.”

The CERD is now working on its General Recommendation No. 37 on racial discrimination and the right to health under article 5 (e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination. In August 2022, it held a [Day of General Discussion](#), which kickstarted the process. While the [concept note](#) circulated ahead of the discussion does not mention climate change or the environment, this General Recommendation (GR) might provide the opportunity to address these dimensions. This has been highlighted by submissions from civil society in response to the CERD’s call for inputs to inform the General Recommendation No. 37.

In particular, a [joint submission](#) from several civil society organizations stressed how the damaging and adverse impacts of climate change on health and access to healthcare facilities are especially felt by communities that are already suffering from racial and economic discrimination. This joint submission encourages the CERD to seize the occasion presented by the upcoming GR to outline States’ obligations regarding the right to health in the climate context. [Other organizations](#) have encouraged the CERD to adopt an intersectionality approach, which takes the climate crisis into account, when addressing racial discrimination and the right to health in General Recommendation No. 37.

Other United Nations entities have already recognized the disproportionate health impacts of climate change on racial minorities. The Working Group of Experts on People of African Descent, when commending the CERD for its decision to issue a GR on the right to health and racial discrimination, clearly stated that “[i]n the light of the climate crisis, the impact of environmental racism and of climate-related disasters on communities of African descent, it is clear that the right to health and the right to environmental justice are inextricably linked” ([Report no. A/HRC/48/78](#), paragraph 71 at p. 15). In its [Climate Change 2022: Impacts, Adaptation and Vulnerability report](#), the Intergovernmental Panel on Climate Change (IPCC) found that, when it comes to climate-related risks to health, “specific types of individuals are identified as

having higher levels of vulnerability and exposure to climate-related health hazards,” including people in conditions that often affect racial minorities such as “impoverish[ment], undernourish[ment],...insecure housing in polluted or heavily degraded environments, work in unsafe conditions,...limited education and/or...poor access to health and social infrastructure” [WGII, Chapter 7, 7.1.7.2 at pp. 1050–1051]. The World Health Organization (WHO) has also [long been aware](#) of the disproportionate health impacts of climate on ethnic minorities, and stressed in its [2021 WHO Health and Climate Change Survey Report](#) how the climate crisis will increase the “risk of a health emergency exacerbating existing inequalities (e.g. in...race).”



© Fred Murphy - CC BY-ND-NC 1.0