

Promoting Human Rights in Climate Action: Report from the Sharm el-Sheikh climate conference (COP27)

This report summarizes key developments from the 27th United Nations Framework Convention on Climate Change Conference of the Parties (COP27) climate negotiations in November 2022 in Sharm el-Sheikh with regards to the integration of human rights in climate policies.

The report provides a short analysis of the COP27 outcomes in relation to agenda items with particular relevance to human rights, recognizing that this is a narrow but important lens to look at the climate negotiations. It also discusses the backdrop of the negotiations, as these elements are important to keep in mind when analyzing the outcomes.

BACKDROP OF COP27: A HOST COUNTRY WITH A DIRE HUMAN RIGHTS TRACK RECORD

COP27 was the first COP outside of Europe in six years. It could have been an important opportunity for polluting nations to see and hear from affected communities first-hand. Voices of civil society and frontline communities are indispensable for ambitious, needs-based and rights-based outcomes. Instead, many civil society representatives witnessed unprecedented restrictions and faced harassment by Egyptian officials. This paralleled the escalating human rights crisis in Egypt. Going into COP27, civil society groups already warned about the systematic [shutting down of protests and cracking down on dissent](#) and the country's [brutal clampdown on civic space](#), including [restrictions](#) targeting environmental and climate groups, [dissident voices](#) facing repression, and women, girls, and LGBTQI+ people facing discrimination.

Civil society across constituencies united around the slogan 'no climate justice without human rights', [demanding the release of all political prisoners](#) in Egypt, including Alaa Abdel Fattah, who was on a hunger strike since the beginning of COP27. Through side-events, mobilizations and statements, unequivocal support was demonstrated for Egyptian groups facing massive restrictions, and a promise was made to keep the pressure after COP. Six months after COP27, Alaa Abdel Fattah has still not been released. Parties have the responsibility to hold Egypt to account for the ongoing human rights crisis in the country.

COP27 raised stark and pervasive barriers to effective and safe public participation, as evidenced by the urgent [joint statement](#) from UN human rights mandate holders in the final days of the conference, denouncing the intimidation, harassment and surveillance faced by climate activists and civil society. While it is not the first time that civil society and Indigenous Peoples representatives experienced these threats and harassments in the context of their participation in a COP, these breaches of the host country's obligations with regards to the civil and political rights of attendees reached unprecedented levels at this conference. Looking ahead to COP28 and beyond, Parties and the UNFCCC Secretariat must work collectively to ensure the safety and meaningful participation of all civil society and other participants to climate talks.

MAJOR BREAKTHROUGH ON LOSS AND DAMAGE

The impacts of the climate crisis are already harming human rights around the globe, such as the rights to life, health, food, housing, culture, development and a clean, healthy and sustainable environment. The people and communities dealing with this do not have any means of seeking remedy, as historic polluters have refused to recognize their responsibility and denied additional funding to properly address the issue of loss and damage. At COP27, after thirty years, a major change of course happened: Parties finally agreed to establish a Loss and Damage Fund. Under the first agenda item on loss and damage finance ever, the G77 and China - backed by civil society and Indigenous Peoples across constituencies - put their united demand to establish a Loss and Damage Finance Facility on the table. Although wealthy countries, spearheaded by the US, again tried to block any progress in this regard and break the unity of developing countries, finally, they agreed to [a decision](#) acknowledging 'the urgent and immediate need for new, additional, predictable and adequate financial resources to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change'. The decision provides, in that context, for new funding arrangements, including the establishment of a Loss and Damage Fund.

A Transitional Committee was established to develop recommendations to operationalize the new funding arrangements, including the new fund, by COP28. Although it is regrettable that the modalities of this Transitional Committee do not explicitly include observer participation, active civil society engagement will be crucial to ensure that the Loss and Damage Fund will be fit for purpose to deliver meaningful, needs-based and rights-based action, reaching the communities and groups that have been most marginalized such as women and girls, Indigenous Peoples, persons with disabilities, and youth and children. The institutional modalities of the fund should be [rooted in human rights](#), including by ensuring meaningful public participation, and should ensure new, additional, public, grants- and needs-based finance to address and remedy the human rights impacts of loss and damage, structured and delivered in ways that are gender-transformative and comply with human rights, including by ensuring that the resources are directly accessible to local communities and Indigenous Peoples on the frontlines.

Another important outcome of COP27 is [the operationalization of the Santiago Network](#) (SNLD). The SNLD is the technical arm of the Warsaw International Mechanism (WIM). It was [established](#) (Decision 2/CMA.2, §43) in 2019 with the objective of catalyzing technical assistance for addressing loss and damage in developing countries. After agreeing on its [functions](#) at COP26 (Decision 19/CMA.3, §9), now its institutional modalities, structure and governance have been fleshed out. An Advisory Board will provide oversight of the implementation of the functions of the SNLD. Importantly, this Advisory Board will include representatives of the Women and Gender Constituency, Indigenous Peoples organizations and youth and children, ensuring a seat at the table for groups most impacted by the climate crisis. The decision also affirms that the technical assistance provided by the SNLD should be demand-driven, developed through an inclusive and country-driven process, take into account the needs of 'vulnerable people, Indigenous Peoples and local communities' (§26), and take human rights into consideration (§27).

ADDRESSING THE SYMPTOMS BUT NOT THE CAUSE: FOSSIL FUELS

Parties at COP27 once again failed to address the root cause of the climate crisis: fossil fuels. This undercuts the progress made on loss and damage, as there can be no real justice for communities harmed by the climate crisis as long as fossil fuel production keeps fueling the crisis. The science is clear: States cannot limit warming to 1.5 degrees Celsius without effectively phasing out all fossil fuels – oil, gas, and coal. Parties missed the opportunity to build on the language included in the Glasgow cover decision - the first ever to mention fossil fuels - and call for an unequivocal and equitable phase out of all fossil fuels. Despite [more than 80 Parties](#) calling for more robust language on fossil fuel phase out, Parties could not find an agreement to include this option in the text, resulting in the final Sharm el-Sheikh Implementation Plan only reiterating the weak language from Glasgow regarding 'phas[ing] down unabated coal and inefficient fossil fuel subsidies'. This language – as well as new references to dubious concepts such as 'low emission energy' - opens major loopholes for technologies such as Carbon Capture and Storage (CCS), utilized in practice to extend the operation of polluting facilities and prolong the use of fossil fuels at the expense of climate action and the health of local communities. Additionally, many of the countries calling for the phase out such as the EU and the US fail to make adequate progress towards the implementation of this commitment at the domestic level, revealing a level of hypocrisy that erodes trust in the negotiations.

The lack of progress on fossil fuels in the COP27 decisions should come as no surprise, with a delegation of [over 600 fossil fuel lobbyists](#) present in Sharm El-Sheikh. This underscores the urgent need to [address the corporate capture](#) of the UNFCCC negotiations by establishing [an adequate accountability framework](#), including a conflict of interest policy. This urgent need has once again become abundantly clear by the decision of the United Arab Emirates to install [an oil executive as the COP28 President](#) and appoint many other former [fossil fuel industry](#) staff for Presidency roles. By failing to protect the process against undue economic and political influence by the industry holding the primary responsibility for the climate crisis, Parties not only undermine any chance of effective climate action but also contribute to the erosion of participatory and transparent environmental decision-making in breach of their obligations under human rights and environmental democracy legal instruments.

At COP28, Parties will need to give a clear signal that the UNFCCC is not a space where fossil fuel interests prevail, by committing to a full and equitable phase out of all fossil fuels, including by integrating this commitment in the outcomes of the Global Stocktake, the Mitigation Work Programme and the Just Transition Work Programme, and by committing to fully embrace this imperative in the implementation and design of Nationally Determined Contributions (NDCs). The Climate Ambition Summit hosted by the UN Secretary-General in September 2023 will be an important step to make this happen. As [stated](#) by Guterres: *“there is a price of entry and the price of entry is non-negotiable – credible, serious and new climate action and nature-based solutions that will move the needle forward and respond to the urgency of the climate crisis must be presented.”* Based on the science, the only credible entry ticket for countries is a commitment to include a rapid, full and equitable phase out of all fossil fuels in their NDCs.

Despite the failure to have a strong commitment on fossil fuel phase out in the decisions, some progress was made on other fronts. In the first week of COP27, Vanuatu became the first State to [announce its support](#) for [a Fossil Fuel Non-Proliferation Treaty](#). Additionally, the [Beyond Oil and Gas Alliance](#) celebrated its one year anniversary, receiving [additional support from new States](#) such as Chile and Fiji.

CARBON MARKETS OPENING THE DOOR FOR FALSE SOLUTIONS

Following the adoption of the Article 6 rules at the previous COP, the [Article 6.4 Supervisory Body](#) - the 22-person body tasked with setting up and overseeing the “Sustainable Development Mechanism” - reported back to the CMA for the first time. On the eve of COP27, the Supervisory Body held its third meeting of 2022 and, in a non-participatory setting, adopted highly problematic recommendations on removals to put forward to the CMA, though failed to adopt recommendations on broader methodologies. These recommendations on removals would have opened the door to a whole host of removals, including land-based removals as well as engineering removals, including Carbon Capture and Storage (CCS), Direct Air Capture (DAC), ocean fertilization, and storing carbon in products. Additionally, they undermined human rights including the rights of Indigenous Peoples as well as of local communities by introducing caveats for national prerogatives, ignoring the standards used in relevant international financial mechanisms.

Following collective advocacy across constituencies, the Parties refused, through the CMA, to endorse the recommendations on removals and sent them back to the Supervisory Body to try again and present new recommendations at COP28. However, despite earlier drafts that would have provided more guidance to the Supervisory Body on developing the removals recommendations including consideration of respect for human rights including the rights of Indigenous Peoples, persons with disabilities, and children as well as gender equality, among others, the final decision did not include this progressive language or reference to human rights. A proposal for a two-year timeframe to develop a more complete governance package that would have guaranteed that no decision be adopted on sectoral approaches before the establishment and operationalization of an independent grievance mechanism. This proposal was however also rejected during the course of the negotiations. The decision on Article 6.4 did, however, include a call for submissions and acknowledged that both the recommendations for removals and for methodologies should be developed in a more participatory manner with structured public consultations.

Much work remains in 2023 to prevent the Article 6 mechanism from undermining climate ambition by opening the door to offsets – especially those generated through false solutions – and from threatening the rights of Indigenous Peoples and local communities.

GLOBAL STOCKTAKE NOT (YET) DELIVERING POLITICALLY

The [Global Stocktake \(GST\)](#) is a process to assess collective progress towards achieving the objectives of the Paris Agreement in terms of mitigation, adaptation, and finance, and in the light of equity and best available science. The process takes place every five years and is essential to the Paris Agreement’s “ratchet mechanism” as it is mandated to inform the preparation of future NDCs and international cooperation on climate action. The GST should [review climate action in light of human rights](#) given that all Parties to the Paris Agreement have international human rights obligations and confirmed they would honor these in the context of climate action. Ensuring such a coherent review of climate action is also essential as the IPCC confirmed that [rights-based climate action results in more effective policies](#).

The first GST started at the end of 2021 and is set to conclude at COP28. The process consists of a technical phase and a political phase, partly overlapping in time. 2022 started off with an information collection phase

as well as technical dialogues¹ and COP27 should have been a transition moment to the political stage of the process. The roundtables and other discussions under the technical dialogues at COP27 covered many aspects, including important human rights dimensions such as gender equality and inclusion of Indigenous knowledge. The question remains how all of this will be captured, and especially how it will feed into a meaningful political outcome. On the flip side, the open and broad approach to the conversations allowed for industry lobbyists to come in and promote false solutions such as CCS and carbon removals as 'innovation'. The GST must focus on real action such as fossil fuel phase-out, and therefore exclude technologies that prolong the dependence on fossil fuels.

The [GST outcome of COP27](#) is focused on the process: Parties decided to hold two more workshops in 2023 and opened a call for submissions about the 'consideration of outputs component' of the GST. As COP27 did not give a clear political signal that the GST will lead to concrete commitments for strengthened ambition, such as phasing out all fossil fuels and through a renewed commitment and guidance on the integration of human rights in plans and policies related to the implementation of the Paris Agreement, in particular NDCs, much work remains to be done in 2023. Parties should not wait until after the technical phase is finished, at the June session on Bonn, to start preparing for the political outcomes.

HUMAN RIGHTS AS A STICKING POINT IN ACTION FOR CLIMATE EMPOWERMENT

At COP27, Parties adopted the new [Action Plan on Action for Climate Empowerment \(ACE\)](#). The goal of ACE is to empower all members of society to engage in climate action. The Action Plan consists of a series of activities that will implement the new [ACE Glasgow Work Programme](#), which was adopted at COP26 (Decision 22/CMA.3). The Action Plan contains activities around four priority areas (policy coherence, coordinated action, tools and support, and monitoring, evaluation and reporting), with outputs specific to each activity, to be implemented by Parties and the Secretariat throughout 2026. Even though ACE pertains to participation, access to information and environmental education, among other elements, which are internationally recognized human rights, some Parties were against any reference to rights-based activities in the Action Plan. Human rights were one of the last sticking points in the ACE negotiations, and civil society's call to mention the rights to participation, access to information and education, as well as of including a specific activity on the protection of environmental human rights defenders was not met.

As a final compromise, the Action Plan now contains one output that pertains to human rights, as it mandates the Secretariat to "[i]dentify good practices for integrating the ACE elements into national climate change policies, plans, strategies and action, including the considerations reflected in the eleventh preambular paragraph of the Paris Agreement – which, acknowledging that climate change is a common concern of humankind, states that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity – in the context of ACE, and reporting thereon in the annual summary report under the Glasgow work programme" (Activity A.2). This Action Plan is a missed opportunity to ensure that the implementation of

¹ The first Technical Dialogue of the first GST (TD1.1) happened in June 2022 at the Bonn Climate Conference (SB56), the second (TD1.2) happened at COP27 and the third (TD1.3) is planned for the 2023 Bonn Conference (SB58).

Action for Climate Empowerment truly contributes to stronger coherence between human rights commitments and climate action. Parties should renew their efforts and commitments to ensure that the implementation of the work programme provides opportunities to accelerate the rights-based implementation of the Paris Agreement.

RIGHT TO A CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT

In the months preceding COP27, the UN General Assembly had recognized the human right of all to a clean, healthy and sustainable environment ([Resolution 76/300](#)), building upon an earlier recognition of this right by the Human Rights Council in October 2021 ([Resolution 48/13](#)). These resolutions affirmed in particular that the “promotion of the human right to a clean, healthy and sustainable environment requires the full implementation of the multilateral environmental agreements under the principles of international environmental law”. COP27 thus offered the first opportunity for the Parties to consider the relevance of this right in the context of the implementation of the UN climate agreements.

The COP27 cover decision [Sharm el-Sheikh Implementation Plan](#) builds upon this UNGA resolution, mentioning the right to a clean, healthy and sustainable environment in its preamble. It was very important that Parties recall this right in the context of the UNFCCC, as this human right is highly relevant in the context of climate action, and this would set an important precedent for other international environmental fora and processes. There was initial pushback from some Parties, which led to the deletion of the right to a clean, healthy and sustainable environment from the cover decision cover draft. However, the strong support of some Parties and coordinated action by civil society and Indigenous Peoples’ organizations through a [joint appeal](#), signed by more than 170 organizations, ensured that this right was reinserted in the final version. Consequently, the COP27 cover decision is the first UN document adopted by consensus that mentions the right to a clean, healthy and sustainable environment (the HRC and UNGA decisions having been adopted through a vote), opening the path to the integration and promotion of this right in the context of UN environmental processes.

INTEGRATION OF HUMAN RIGHTS IN OTHER RELEVANT OUTCOMES

> Adaptation

At COP27, the implementation of the Global Goal on Adaptation (GGA), as established by Article 7 of the Paris Agreement, was high on the agenda. Developing countries [strongly advocated](#) for the establishment of a framework with dimensions, themes and indicators. Finally, [the decision](#) merely initiates the development of such a framework to be developed throughout 2023 and adopted at COP28, again postponing a final decision on this issue. Parties indicated (§10) that the framework may take into consideration cross-cutting considerations such as gender-responsive, transparent and fully participatory, and human rights approaches, as well as intergenerational equity and social justice and Indigenous and local knowledge, among other things. One sticking point proved to be discussions on means of implementation, with opposition of developed country Parties resulting in a weak decision text. More generally in terms of adaptation finance, limited progress was made, despite [last year’s COP26 commitment](#) (Decision 1/CMA.3, §18) to double adaptation finance by 2025. Instead of a clear way forward to realize this commitment, Parties requested the Standing Committee on Finance (SCF) to prepare a report addressing the issue more specifically.

> Finance

As noted above, one of the major finance outcomes was the decision to establish a Loss & Damage Fund. However, there were many other finance related discussions that took place during COP27 including providing guidance to the Global Environment Facility (GEF) and Green Climate Fund (GCF) as well as discussions related to the SCF. COP27 also saw continued discussions of the New Collective Quantified Goal (NCQG). While these discussions acknowledged the need for a significant scaling up of climate finance including calls to double adaptation finance, there was push back against adopting finance goals based on needs. Overall, there was little focus on inclusion of human rights, including making finance more accessible and human rights compatible among other aspects, across the finance discussions and outcomes. 2023 will see more discussions (with potential openings for advocacy for advancing human rights-based climate finance) on the NCQG as well as the replenishment of the GCF, which will be accompanied by the adoption of an updated strategic plan.

> Local Communities and Indigenous Peoples Platform

As a part of its [three-year work plan](#), the Local Communities and Indigenous Peoples Platform (LCIPP), held its second Annual Gathering of Knowledge Holders, a Multistakeholder Dialogue, and an Annual Youth Roundtable. Many of these events relate to the advancement of participatory rights, discussing the inclusion of youth and the sharing of knowledge. The [International Indigenous Peoples Forum on Climate Change](#) argued in particular in that global leaders and delegates to the COP must understand the distinction between Indigenous Peoples and local communities so as to avoid the weakening of rights uniquely protected for Indigenous Peoples.

> Gender and Climate Change

Gender equality is key for the enjoyment of human rights, particularly in the face of climate change. At COP27, parties and other stakeholders held an intermediate review of the implementation of the Gender Action Plan (GAP). The GAP was adopted in 2019 under the enhanced Lima Work Programme on Gender. Early in the negotiations in Sharm el-Sheikh, the Women and Gender Constituency (WGC) [expressed serious concerns](#) over the lack of substantive discussions, and the limited participation of gender experts and advocates in the process. At the last minute, Parties [agreed on a GAP review](#) that reflects these shortcomings, by not prioritizing gender-responsive implementation nor providing extra resources for National Gender and Climate Change Focal Points, leaving the WGC [deeply frustrated](#) over 'the total lack of substantive review'.

> Just Transition Work Programme

Parties at COP27 took a step forward towards equitable and rights-based policies, including labor rights, by establishing a Just Transition Work Programme through the [cover decision](#). There is not much clarity yet on what this work programme will look like, apart from an annual high-level ministerial round table. A draft decision is to be prepared by COP28. Importantly, the cover decision relates the just transition to meaningful and effective social dialogue and participation of all stakeholders, and social protection. These decisions were [welcomed by the trade unions](#) who had participated intensively in these negotiations.

> Agriculture and Food Security

The human right to food is severely impacted by the climate crisis, with [record levels of hunger](#) being reported due to overlapping crises. At the same time, the agricultural sector is a major contributor to

greenhouse gas emissions. Addressing these emissions, while ensuring that the right to food is safeguarded, requires a systems transformation. Food was a heavily discussed topic at Sharm el-Sheikh. Parties decided to continue the work of the Koronivia Joint Work on Agriculture, established at COP23 in 2017, with the establishment of a four year [Sharm el-Sheikh joint work](#) on implementation of climate action on agriculture and food security (it is the first time that a COP decision is dedicated explicitly to food security and not just agriculture). However, Parties [could not agree](#) on language around a whole of food systems approach, including [a workshop](#) around food systems transformation, and did not include any reference to agroecology, which is [strongly connected to the human right to food](#).

MOVING FORWARD: PROMOTING HUMAN RIGHTS UNDER THE PARIS AGREEMENT IN 2023

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

- Rooting the newly established **Loss and Damage Fund** in human rights, including by ensuring meaningful public participation, to ensure it provides **new, additional, public, grants- and needs-based finance at scale** to address and remedy the human rights impacts of loss and damage, structured and delivered in ways that are **gender-transformative and comply with human rights**, including by ensuring that the resources are directly accessible to local communities, and Indigenous Peoples on the frontlines;
- Ensuring that the **Article 6.4 Supervisory Body** undertakes its work in a transparent and participatory manner and works to establish a **complete governance framework**, rather than taking a piecemeal approach, that includes establishing the **independent grievance mechanism**, and develops recommendations in line with science and international law. Additionally, ensuring that recommendations for removals do **not open the door to myriad false solutions** and do not undermine human rights including the rights of Indigenous Peoples and ecosystem integrity.
- Ensuring that **the Global Stocktake** sparks the ambition increase and real action that the climate emergency requires, such as a commitment to a **full and equitable phase out of all fossil fuels**, the **implementation of a human rights-based approach in climate action**, including the rights of Indigenous Peoples, and the **protection of environmental human rights defenders**.

For additional submission deadlines, see [UNFCCC Submission Portal](#).

For more information regarding this briefing, please contact:

Lien Vandamme, Senior Campaigner, Center for International Environmental Law: vandamme@ciel.org.