

# AMNESTY INTERNATIONAL

## RECOMMENDATIONS TO PARTIES TO THE UNFCCC

### ON HUMAN RIGHTS CONSISTENT CLIMATE ACTION IN 2024

This document provides recommendations for parties to the UN Framework Convention on Climate Change (UNFCCC) and to the Paris Agreement which would help put human rights front and centre of all climate action and decision making at COP29 in Baku, Azerbaijan in November 2024. It updates an earlier version published in May 2024.

To do so will result in more effective and more sustainable outcomes; remedies for unavoidable harms; reductions in historic inequalities often stemming from racist and colonial legacies; and will point the way towards climate justice. A massive scale up of climate finance in line with the polluter pays principle and the obligation to provide international cooperation and assistance together with global tax reform and debt restructuring is key to this transformation and is the collective focus of the climate justice movement, of which Amnesty International is part, ahead of COP29 – dubbed by some as the “finance COP”.<sup>1</sup>

#### KEY HUMAN RIGHTS MESSAGES FOR CLIMATE ACTION IN 2024

- **There is no climate justice without human rights.** Put human rights at the heart of all climate action decision making to ensure a rapid, equitable and just transition to zero carbon economies that reduce inequalities between and within countries.
- All states in a position to do so must **massively scale up needs-based climate finance**, particularly for adaptation and loss and damage, in the form of grants, not loans, with those most responsible for emissions contributing the most.
  - Agree a minimum of USD 1 trillion for the NCQG, with sub-goals on mitigation, adaptation, and loss and damage.
  - Provide adequate capitalization based on the polluter pays principle for the Fund for responding to Loss and Damage to enable affected people in lower income countries to effectively access resources.
  - Ensure provision of adequate finance for all aspects of just transition.
  - Equitably transform global systems of development finance, taxation, and public and private investment.
  - Ensure debt restructuring for countries that need it.
- Commit to a **full, fast, fair, and funded fossil fuel phase out** across all sectors, without relying on risky and unproven technologies or offsets that do not lead to genuine emissions reductions.
  - Develop new human rights compliant NDCs that will keep global warming below 1.5°C above pre-industrial levels, with high income historical emitters, other high emitting G20 countries, and other high income fossil fuel producers going furthest and fastest.
- **Protect civic space**, including at UNFCCC meetings, for civil society, children and youth, women, people with disabilities and Indigenous Peoples from all countries, including Azerbaijan, where freedoms of expression, association and peaceful assembly are severely restricted.
  - All states must press for respect for freedom of expression and peaceful assembly in all UNFCCC meetings, as well as meaningful improvements in the human rights situation in the United Arab Emirates, the outgoing president and in Azerbaijan ahead of COP29.
  - Host countries and the UNFCCC Secretariat must routinely publish Host Country Agreements swiftly after signing.

<sup>1</sup> Economist Impact, “What next for climate finance?”, 13 February 2024, <https://impact.economist.com/sustainability/net-zero-and-energy/what-next-for-climate-finance>

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# ROOTING DECISIONS IN HUMAN RIGHTS LAW AND STANDARDS FOR CLIMATE JUSTICE

Day after day, we are seeing devastating new human rights harms from climate change as we nudge ever closer to warming of 1.5°C above pre-industrial levels. The science is clear – we urgently need to equitably phase out fossil fuels to have a chance of keeping to that target and avoiding the worst human rights harms. We also know that the worsening impacts of climate change already disproportionately affect those who have contributed the least, including children, older persons, racialized communities, people living under occupation, refugees and migrants, Indigenous Peoples, people living with disabilities and women, particularly in lower income countries that are least responsible for climate change. They are also disproportionately represented among the fenceline communities that suffer the most from the human rights harms associated with the transition away from fossil fuels. To address these historical inequalities, a transformation of global systems of development finance, taxation, and public and private investment for climate action, as well as for sustainable development more generally, is required.

## CLIMATE JUSTICE

This term, used in different ways in different contexts by different communities, highlights the justice implications of the climate crisis and the need to design **just and fair policy responses** to climate change. Climate justice approaches focus on the **root causes of the climate crisis** and how **climate change builds on and magnifies inequalities** among countries and within countries.

Climate justice demands are based on the imperative of addressing such imbalances and injustices, starting from centring climate action in the **perspectives, knowledge and demands of groups and communities most affected by the climate crisis**. **Gender, racial, class, ethnic, disability and inter-generational justice** are essential to achieve climate justice.

The Intergovernmental Panel on Climate Change (IPCC) in its 6<sup>th</sup> Assessment Report has noted that climate justice is generally considered to include three principles:

- **distributive justice** which refers to the allocation of burdens and benefits among individuals, nations and generations.
- **procedural justice** which refers to who decides and participates in decision-making.
- **recognition** which entails basic respect and robust engagement with, and fair consideration of, diverse cultures and perspectives.

Protection of, and respect for, human rights are essential for effective climate action, as noted by the IPCC.<sup>2</sup> The Paris Agreement preamble includes references to human rights law and standards,<sup>3</sup> but regrettably, attention to human rights in COP discussions and decisions since then have remained limited and have been opposed by some parties. Once again, at COP28, to achieve consensus, proposed references to human rights were removed from final versions of decisions in the context of a conference overshadowed by the lack of freedom of expression and peaceful protest in the host country (see [section on inclusive and effective participation](#) below).

For example, despite the confirmation in the synthesis report of the technical phase of the first Global Stocktake (GST),<sup>4</sup> that integrating human rights leads to more ambitious and sustainable outcomes and that this entails the effective inclusion of marginalized groups, the GST outcome document<sup>5</sup> references human rights in the preambular section but

<sup>2</sup> The Summary for Policymakers of the IPCC's synthesis report of its sixth assessment cycle states that "Adaptation and mitigation actions that prioritise equity, social justice, climate justice, rights-based approaches, and inclusivity, lead to more sustainable outcomes, reduce trade-offs, support transformative change and advance climate resilient development," Section C.5.2, <https://www.ipcc.ch/report/ar6/syr/summary-for-policymakers/>

<sup>3</sup> Paris Agreement, UN Doc. FCCC/CP/2015/10/Add.1

<sup>4</sup> The GST, mandated under Article 14 of the Paris Agreement, is a five-yearly assessment of progress towards the goals of the agreement.

<sup>5</sup> UNFCCC, *Decision 1/CMA.5 Outcome of the first global stocktake*, UN Doc. FCCC/PA/CMA/2023/16/Add.1, [https://unfccc.int/sites/default/files/resource/cma2023\\_16a01\\_adv.pdf](https://unfccc.int/sites/default/files/resource/cma2023_16a01_adv.pdf)

disappointingly failed to give clear guidance to parties on the incorporation of human rights into their new Nationally Determined Contributions (NDCs) that will update states' targets for more ambitious emissions reductions. Instead, it merely "encourages" parties to implement climate action that is gender responsive, fully respects human rights and empowers youth and children. More explicit references to human rights that would have "requested" constituted bodies of the UNFCCC "to strengthen the mainstreaming of a gender perspective and inclusiveness in their work, with a view to ensure a more efficient, gender-responsive and human-rights based climate action" were dropped during the negotiations.<sup>6</sup>

The GST outcome decision also failed to adequately provide a comprehensive monitoring and follow up mechanism for the elements contained within it, which is essential to enable monitoring and mitigation of any human rights impacts. The decision mandated an annual global stocktake dialogue at the subsidiary bodies to reflect on how the GST outcomes are informing the preparation of the next round of NDCs.<sup>7</sup> Under the section on finance, it also established the UAE dialogue on implementing the global stocktake outcomes which should be operationalized at COP29.<sup>8</sup> However, at the Bonn Climate Conference, the positioning in the finance section led to divergent positions on whether the UAE dialogue should only cover finance or also cover other aspects of the GST decision and little progress was made towards defining the modalities for the dialogue. While provision of finance is key to successful GST outcomes, it is imperative for there also to be a way to monitor and follow up all aspects of the GST decision. A Ministerial round table at COP29 could ensure that adequate consideration is given to this issue. At COP29, parties must finalise the modalities for the UAE dialogue, which should be organized as early as possible in January 2025 to enable its outcome to influence the preparation of the next round of NDCs.

The modalities for the second GST will also be negotiated and agreed at COP29. These must place human rights at its heart, so that the process promotes climate, racial and gender justice. The establishment of a Global People's Assembly for the GST could be catalytic in this regard as it could create a process that would help to mainstream diverse civil society and grassroots perspectives throughout GST2, leading to more effective outcomes. The second GST must be science-based, drawing on different forms of expertise; promote equity and inclusion; and take a whole of society approach. It must also ensure a coherent process that enables each phase to build on the one before; separate consideration of loss and damage from adaptation; avoid reliance on risky and unproven technologies that undermine the rapid and equitable fossil fuel phase out needed; and take a robust stance on conflict of interest to avoid undue influence from the fossil fuel industry.

It was also disappointing that COP28 did not address the urgent need for protection of environmental human rights defenders (EHRDs) and climate activists. Worldwide, EHRDs working on climate justice are increasingly targeted with violence, harassment, criminalization, with Indigenous Peoples and frontline communities, especially women, being particularly targeted. On average, one land and environmental defender was killed approximately every two days in 2022 and 2023.<sup>9</sup> More and more states are passing repressive laws to prevent freedom of assembly, and companies are using strategic litigation against public participation lawsuits (SLAPPs) to deter dissent and human rights monitoring, and to attack those who oppose climate-damaging industries and infrastructure or who demand protection of their rights in the context of the transition away from fossil fuels.

Another missed opportunity at COP28 was the failure to commit to the development of an Accountability Framework for states and corporations, and for the UNFCCC itself. Accountability is a vital component of the protection and respect for human rights, and such a framework should be agreed and developed as a matter of urgency. For states, this accountability framework should include mandatory human rights and environmental impact assessments of proposed plans under the NDCs. For corporation and other non-state actors, the framework should address non-state actors' net zero targets, taking into account the recommendations of the High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities,<sup>10</sup> in order to monitor progress towards implementation of the Paris Agreement. For the UNFCCC, this accountability framework should include a clear conflict of interests policy for the UNFCCC, that

<sup>6</sup> Draft text on SBSTA 59 agenda item 5 / SBI 59 agenda item 8: Matters relating to the global stocktake under the Paris Agreement Version 5/12/2023 5:00, [https://unfccc.int/sites/default/files/resource/GST\\_0.pdf](https://unfccc.int/sites/default/files/resource/GST_0.pdf)

<sup>7</sup> UNFCCC, *Decision 1/CMA.5 Outcome of the first global stocktake*, UN Doc. FCCC/PA/CMA/2023/16/Add.1, para 187, previously cited

<sup>8</sup> UNFCCC, *Decision 1/CMA.5 Outcome of the first global stocktake*, UN Doc. FCCC/PA/CMA/2023/16/Add.1, paras 97-98, previously cited

<sup>9</sup> Global Witness, "More than 2,100 land and environmental defenders killed globally between 2012 and 2023", 10 September 2024, <https://www.globalwitness.org/en/press-releases/more-2100-land-and-environmental-defenders-killed-globally-between-2012-and-2023/> and "Almost 2,000 land and environmental defenders killed between 2012 and 2022 for protecting the planet", 13 September 2023, <https://www.globalwitness.org/en/press-releases/almost-2000-land-and-environmental-defenders-killed-between-2012-and-2022-protecting-planet/>

<sup>10</sup> United Nations' High-Level Expert Group on the Net Zero Emissions Commitments for Non-State Entities. Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions [https://www.un.org/sites/un2.un.org/files/high-level\\_expert\\_group\\_n7b.pdf](https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf)

prevents entities with private interests – such as the fossil fuel industry – from influencing COP negotiations and undermining the objectives of the UNFCCC and the Paris Agreement.

On a more positive note, the Just Transition Work Programme (JTWP) adopted at COP28<sup>11</sup> referenced labour rights for the first time in a COP decision and highlighted the importance of social protection, social dialogue and inclusive and participatory approaches, although the JTWP decision as a whole was a missed opportunity to recognize explicitly the fundamental importance of human rights in achieving the necessary just transitions across all sectors, including energy, transport, agriculture and forestry, construction, steel and mining.

The GST also mandated an expert dialogue on children and climate change, to identify policy solutions to address the disproportionate impact of climate change on children; this dialogue took place at the Bonn Climate Conference.<sup>12</sup> Consideration should be given to how the outcome of the dialogue can be built upon and meaningfully implemented to protect the rights of children.

There must be no more missed opportunities: states' human rights obligations must guide all climate decisions, both nationally and internationally. Human rights principles, law and standards help to clarify the steps that states must take to ensure that climate measures will effectively protect the rights of all people, without discrimination, from the worst impacts of climate change. It is particularly important that all future decisions taken within UNFCCC processes, as well as climate action policies and measures at regional, national and sub-national level should be centred on the human rights of Indigenous Peoples, racialized people, and other marginalized groups who are disproportionately affected by the climate crisis. Such groups must be able to participate fully in relevant decision-making and be protected from reprisals for their engagement in the UNFCCC and from other attacks. Moreover, climate solutions proposed by communities on the frontline of the climate crisis should be central to all climate action discussions, including at the UNFCCC. The essential work of EHRDs and climate activists, which requires freedom of expression, association and peaceful assembly, must be publicly recognized, and effective mechanisms put in place for protection of their rights.

The Action on Climate Empowerment (ACE) workstream, with its six pillars of climate change education, training, public awareness, public participation, public access to information, and international cooperation, is an important space to mainstream procedural rights across all UNFCCC workstreams. However, this requires adequate finance for ACE which should be fully explored in the ACE Dialogue at COP29; specifically, the NCQG agreement should include financing for ACE.

The current processes for the Enhanced Lima Work Programme on Gender (ELWGP) and the Gender Action Plan (GAP) will both end at COP29. Despite challenges identified by civil society,<sup>13</sup> these nonetheless remain important for promoting gender-transformative climate action at local, national and global levels and should be strengthened and renewed, including by concrete references to human rights principles and standards throughout.

A particularly important decision to be taken at COP29 is agreement on the New Collective Quantified Goal (NCQG) on Climate Finance which will set new targets for the provision of finance for lower income countries that need assistance to carry out climate action, from a floor of USD 100 billion a year, the current commitment up to 2025 by some high-income countries.<sup>14</sup> Improving the quantity and quality of climate finance is a widely shared goal of the climate justice movement and Amnesty International is joining the efforts of allies to advocate and campaign for an adequate, human rights and needs-based goal that will help deliver the finance needed to keep global warming to below 1.5° above pre-industrial levels.

#### **Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:**

- Put people and their human rights, including the rights of Indigenous Peoples, at the centre of all UNFCCC negotiations and decisions with a view to achieving climate justice.<sup>15</sup> All decisions, including the NCQG and COP29 final outcome documents, must reference relevant human rights obligations, principles and standards, and ensure the respect, protection, promotion and fulfilment of human rights.

<sup>11</sup> UNFCCC, *United Arab Emirates Just Transition work programme*, Decision 3/CMA.5, [https://unfccc.int/sites/default/files/resource/cma5\\_auv\\_5\\_JTWP.pdf](https://unfccc.int/sites/default/files/resource/cma5_auv_5_JTWP.pdf)

<sup>12</sup> UNFCCC, *Decision 1/CMA.5 Outcome of the first global stocktake*, para. 182, previously cited

<sup>13</sup> UNFCCC Women and Gender Constituency, *Submission to the Gender Action Plan Review*, April 2024, <https://www4.unfccc.int/sites/SubmissionsStaging/Documents/202404040413--WGC%20GAP%20Submission.pdf>

<sup>14</sup> UNFCCC, *New Collective Quantified Goal on Climate Finance*, [https://unfccc.int/sites/default/files/resource/UNFCCC\\_NCQG2023\\_flyer\\_web.pdf](https://unfccc.int/sites/default/files/resource/UNFCCC_NCQG2023_flyer_web.pdf)

<sup>15</sup> The Global Stocktake document, Decision -/CMA 5, noted the importance of "climate justice" when taking action to address climate change in its preamble. [https://unfccc.int/sites/default/files/resource/cma5\\_auv\\_4\\_gst.pdf](https://unfccc.int/sites/default/files/resource/cma5_auv_4_gst.pdf)

- Ensure that the references to human rights included in previous COP decisions are translated into effective measures to respect, protect and fulfil human rights in climate action, including:
  - ambitious measures to phase out fossil fuels and limit global warming below 1.5°C through a just transition in all sectors;
  - the speedy provision of adequate new, additional and predictable finance from high income historical emitting countries<sup>16</sup> and other countries in a position to do so, including high emitting G20 members<sup>17</sup> and high income fossil fuel producers, to support lower income countries in reducing emissions, adapting to climate change and addressing loss and damage;
  - a concrete Accountability Framework for state and non-state actors that includes a robust conflict of interest policy for the UNFCCC.
- Agree concrete measures for the implementation and review of the GST that mainstreams human rights and gender equity considerations, as well as the rights of Indigenous Peoples throughout, including by:
  - Convening a ministerial dialogue on the GST with a view to agreeing the modalities and timing for a UAE dialogue on implementing the global stocktake outcomes in January 2025 that addresses all elements of the GST outcomes, as well as mobilization of the finance needed to ensure equitable and adequately resourced responses to climate change.
- Agree modalities for the second GST that place human rights at its heart, so that it promotes climate, racial and gender justice. Ensure it is:
  - science-based, and drawing on diverse expertise;
  - promotes equity and inclusion; and take a whole of society approach, including the establishment of a Peoples’ Assembly for the Global Stocktake;
  - considers loss and damage separately to adaptation;
  - coherent and iterative across all stages of its process;
  - avoids reliance on risky and unproven technologies that will undermine the rapid and equitable fossil fuel phase out required and prevents undue influence from the fossil fuel industry.
- Mainstream ACE principles across all UNFCCC workstreams and ensure the ACE dialogue discusses adequate provision of ACE finance, including allocation in the NCQG.
- Renew and strengthen the Enhanced Lima Work Programme on Gender and the Gender Action Plan, including through integration and implementation of human rights principles and standards.
- Fully consult and include relevant experts in human rights, Indigenous People’s representatives and human rights defenders in all parties’ delegations to UNFCCC meetings.
- Facilitate the meaningful participation in, and full and equitable access to, COP29 for civil society organizations, including human rights and social justice movements and particularly for representatives of Indigenous Peoples, children, youth, older persons, women, people with disabilities, racialized people, and other marginalized groups who are on the frontline of climate change.

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<sup>16</sup> UNFCCC “Annex II countries” - industrialized “developed” countries with the highest historical responsibilities for GHG emissions, except for economies in transition such as the Russian Federation, the Baltic States, and several Central and Eastern European States, have the obligation to provide climate finance to “developing” countries in need of assistance. Under the Paris Agreement, other parties are encouraged to provide or continue to provide such support voluntarily (Article 9.2). Under human rights law, all states in a position to do so must provide international cooperation and assistance for the realization of economic, social and cultural rights. Amnesty International chooses not to use the terms “developed” and “developing” as this obscures the pivotal role played by colonialism and neo-colonialism in entrenching inequalities between countries, and advances an overly simplistic, dichotomous view of the world that does not contribute to an understanding of, and progress towards, climate justice.

<sup>17</sup> Collectively, G20 members are responsible for 76 % of global GHG emissions. See United Nations Environment Programme, Executive Summary of Emissions Gap Report 2023, October 2023, [https://wedocs.unep.org/bitstream/handle/20.500.11822/43923/EGR2023\\_ESEN.pdf?sequence=10](https://wedocs.unep.org/bitstream/handle/20.500.11822/43923/EGR2023_ESEN.pdf?sequence=10), p. 5

- Enhance the protection of EHRDs and climate activists through concrete provisions that include reporting, investigating and seeking accountability and redress for reprisals against them and public information about the actions taken to do so, as well as public recognition of the importance of their work, including at COP29.

## CLIMATE FINANCE

Adequate climate finance is crucial to help lower income countries carry out rapid and human rights consistent transitions to zero carbon economies (mitigation) and to adapt to the effects of climate change to protect their populations from human rights harms resulting from climate change. Providing adequate climate finance - currently defined as finance for mitigation and adaptation - and other means of implementation<sup>18</sup> to lower income states is an obligation for some states under both the UNFCCC and the Paris Agreement<sup>19</sup> and for all states in a position to do so under the principle of international cooperation and assistance under international human rights law.<sup>20</sup> Regrettably, hardly any progress has been made towards agreeing an adequate climate finance goal. Time is running out for states to reach consensus on a target that will deliver adequate climate finance for the crucial climate action needed in years ahead. For more details, see [section on the NCQG](#) below.

### QUANTITY OF FINANCE

High income historical emitting countries have failed to meet their existing obligations to provide climate finance. They repeatedly failed to meet their commitment - first made at COP15 and repeated at COP21 - to deliver USD 100 billion for climate finance annually from 2020 till 2025 to lower income countries - an amount which, in any case, falls far below what is actually needed.<sup>21</sup> Needs will increase with each increment of global warming. At COP27, some high income historical emitting states opposed the request of lower income countries for them to commit to paying the existing shortfall and therefore providing the cumulative amount of 600 billion USD over the period 2020-2025.

Despite the explicit aim under the Paris Agreement aim to achieve a balance between adaptation and mitigation finance,<sup>22</sup> the climate finance gap is particularly acute in relation to adaptation finance, where the gap is now estimated at USD 194-366 billion per year,<sup>23</sup> and growing. Regrettably, funding for adaptation actually fell in 2021, and the Adaptation Fund received pledges for only USD 192.31 million - less than two thirds of the USD 300 million target.<sup>24</sup> Additionally, there have been delays in the delivery of some climate finance pledges.<sup>25</sup>

As agreed at COP26<sup>26</sup> and reiterated at COP28,<sup>27</sup> states must urgently agree on a plan for delivery on the goal to double adaptation finance by 2025, while recognizing that the actual needs are much greater and that there is need for a significant scale up beyond doubling.<sup>28</sup> The doubling target must be recognized as an initial step to much higher ambition that corresponds with the finance needs for adaptation.

<sup>18</sup> Means of implementation under the Paris Agreement include finance, technology transfer and capacity building (Articles 9,10 and 11).

<sup>19</sup> UNFCCC (Article 4.3 and 4.4) and the Paris Agreement (Article 9.1), All states that are in a position to do so are encouraged to provide finance under Article 9.2 of the Paris Agreement.

<sup>20</sup> Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states: "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures".

<sup>21</sup> The UNFCCC Second Determination of Needs report has indicated that USD 5.012-6.852 trillion will be required cumulatively until 2030 for lower income countries to address climate change in accordance with the Convention and the Paris Agreement. UNFCCC Second report on the determination of the needs of developing country Parties related to implementing the Convention and the Paris Agreement, UN Doc. SCF/2024/35/4, Annex I (unedited), 10 September 2024

<sup>22</sup> Paris Agreement, Article 9.4

<sup>23</sup> UN Environment Programme, *Adaptation Gap Report 2023*, <https://www.unep.org/resources/adaptation-gap-report-2023>

<sup>24</sup> Adaptation Fund, "Adaptation Fund Mobilizes Over US\$ 192 Million in New Pledges at COP28 for the Most Climate Vulnerable", 9 December 2023, [https://www.adaptation-fund.org/wp-content/uploads/2023/12/Press-Release\\_120923\\_AF-Mobilizes-Over-US-192-Million-in-New-Pledges-at-COP28-for-the-Most-Climate-Vulnerable.pdf](https://www.adaptation-fund.org/wp-content/uploads/2023/12/Press-Release_120923_AF-Mobilizes-Over-US-192-Million-in-New-Pledges-at-COP28-for-the-Most-Climate-Vulnerable.pdf)

<sup>25</sup> For example, as of 7 December 2023, there were outstanding pledged contributions to the Adaptation Fund from previous years of USD 148.27 million, USD 67.79 million under signed agreements; Decision 12/CMA.5: Matters relating to the Adaptation Fund, para 2 (g), UN Doc. FCCC/PA/CMA/2023/16/Add.2, [https://unfccc.int/sites/default/files/resource/cma2023\\_16a02\\_adv\\_0.pdf](https://unfccc.int/sites/default/files/resource/cma2023_16a02_adv_0.pdf)

<sup>26</sup> UNFCCC, *Glasgow Climate Pact*, UN Doc. FCCC/PA/CMA/2021/10/Add.1, <https://unfccc.int/documents/460950>

<sup>27</sup> UNFCCC, *Glasgow-Sharm el-Sheikh work programme on the global goal on adaptation referred to in decision 7/CMA.3*, Decision 2/CMA.5 [https://unfccc.int/sites/default/files/resource/cma5\\_auv\\_8a\\_gga.pdf](https://unfccc.int/sites/default/files/resource/cma5_auv_8a_gga.pdf)

<sup>28</sup> UNFCCC, *Outcome of the first global stocktake*, Decision 1/CMA.5, para 86 [https://unfccc.int/sites/default/files/resource/cma2023\\_16a01\\_adv\\_.pdf](https://unfccc.int/sites/default/files/resource/cma2023_16a01_adv_.pdf)

## RECOMMENDATIONS

**Ahead of COP29 in November 2024, Amnesty International calls on all states in a position to do so, particularly high income historical emitting countries, and other high emitting G20 members and high-income fossil fuel producing states to:**

- Present a clear plan on how to achieve and surpass the goal set at COP26 to at least double adaptation finance from 2019 levels by 2025,<sup>29</sup> including shortfalls from previous years, taking into account that this would still be insufficient to enable lower income countries in need of assistance to adequately support people to adapt to climate change.<sup>30</sup>
  - Individual states that made pledges up to 2019 should back up the plan with concrete adaptation finance commitments, aiming to go well beyond the goal of doubling pledges.
- Commit new and additional public climate finance to lower income countries in need of assistance for human rights-consistent climate action, aiming to ensure a balance between funding for mitigation and adaptation.
  - Individual states that have made or make additional financial pledges for all forms of climate action, including loss and damage, should fulfil these as speedily as possible, in line with paragraph 82 of the Global Stocktake outcome.<sup>31</sup>

## QUALITY OF CLIMATE FINANCE: TRANSFORMATION OF DEVELOPMENT FINANCE, TAXATION, AND PUBLIC AND PRIVATE INVESTMENT FOR CLIMATE ACTION

Human rights standards are also relevant to the quality of climate financing. All climate finance should be new, adequate, predictable and additional<sup>32</sup> to other forms of development finance to avoid the risk of cannibalizing funding essential for the realization of other human rights, including the right to sustainable development. The majority of current climate funding is being provided in the form of loans,<sup>33</sup> which merely increases debt in recipient countries' when many are already facing unsustainable levels of indebtedness and are forced to put in place austerity policies that undermine human rights, including in the context of soaring climate change impacts.<sup>34</sup> Debt distress is limiting the fiscal space in developing countries and preventing scaling of finance flows consistent with the goals of the Paris Agreement. Without debt restructuring, and cancellation if appropriate, new finance (even if at concessional rates) would have to be used to repay existing debts owed, often to private creditors and thus could not be used to the maximum extent to address the climate crisis.

The climate justice movement, of which Amnesty International is part, is calling for broad transformation of global systems of development finance, taxation, and public and private investment for climate action in order to address the current inequalities these systems create. This transformation is required to make finance more available and affordable for developing countries to undertake climate action. Ensuring such transformation takes place rapidly is necessary to meet states' international obligations to provide international cooperation and assistance to ensure climate justice through the progressive realization of economic, social and cultural rights (ESCR).<sup>35</sup>

While an independent debt work-out mechanism to replace the G20 Common Framework for Debt Treatment - an agreement of the G20 and Paris Club countries to coordinate and cooperate on debt treatments for up to 73 low-income

<sup>29</sup> UN Doc. FCCC/PA/CMA/2021/10/Add.1, para 18, (previously cited).

<sup>30</sup> It has been estimated that adaptation finance was roughly 20 billion USD in 2019. The United Nations Environment Programme estimated that the annual costs of adaptation in developing countries could be between US\$160 billion and US\$340 billion by 2030. See UNEP, *Adaptation Gap Report, 2022*, <https://www.unep.org/resources/adaptation-gap-report-2022>

<sup>31</sup> UNFCCC, Outcome of the first global stocktake, previously cited.

<sup>32</sup> UNFCCC, Article 4.3

<sup>33</sup> The amount mobilized in 2021 was USD 89.6 billion, according to the OECD, *Aggregate Trends of Climate Finance Provided and Mobilised by Developed Countries in 2013-2021, 2023*, <https://www.oecd-ilibrary.org/sites/e20d2bc7-en/index.html?itemId=/content/publication/e20d2bc7-en>. According to the same report, based on preliminary and as yet unverified data, the goal looks likely to have already been met as of 2022. See also Oxfam, *Climate Finance Shadow Report 2023: Assessing the delivery of the \$100 billion commitment*, June 2023, [https://policy-practice.oxfam.org/resources/climate-finance-shadow-report-2023-621500/commitment - Oxfam Policy & Practice](https://policy-practice.oxfam.org/resources/climate-finance-shadow-report-2023-621500/commitment-Oxfam-Policy-&Practice)

<sup>34</sup> See for example Amnesty International, *Multiple Crises, Fiscal Systems and Human Rights: Submission to the Independent Expert on Foreign Debt, Other International Financial Obligations and Human Rights*, 9 May 2023, Index: IOR 40/6756/2023, <https://www.amnesty.org/en/documents/ior40/6756/2023/en/> and *Recommendations to states to finance economic, social and climate justice*, 5 June 2023, Index: IOR 10/6825/2023, <https://www.amnesty.org/en/documents/ior10/6825/2023/en/>

<sup>35</sup> See for example, Amnesty International, *Recommendations to states to finance economic, social and climate justice*, 5 June 2023, Index: IOR 10/6825/2023, <https://www.amnesty.org/en/documents/ior10/6825/2023/en/>



countries - which has proved inadequate,<sup>36</sup> is needed for ESCR realization,<sup>37</sup> a human rights compliant transformation entails going beyond debt restructuring and cancellation where appropriate, to addressing the root causes of debt distress, including the higher costs of borrowing for developing countries, the lack of grant-based assistance and failures to address large scale tax evasion and aggressive tax avoidance which is depriving states of an estimated USD 480 billion per year - USD 5 trillion over the next decade.<sup>38</sup>

Greater financial transparency and the establishment of a UN Framework Convention on International Tax Cooperation to create fair global tax rules, as called for under the 2022 UN General Assembly resolution would help to strengthen the inclusiveness and effectiveness of international tax cooperation.<sup>39</sup> Within the framework of the process towards a UN Tax Convention,<sup>40</sup> a range of measures could reduce and prevent tax avoidance, tax evasion and illicit financial flows that limit developing countries' ability to collect revenue and make finance flows consistent with climate and development goals.<sup>41</sup>

Civil society analysis shows that higher income countries have the means to mobilize well over USD 5 trillion a year for climate action domestically and for the NCQG, including by ending fossil fuel handouts, making big polluters pay and changing unfair global financial rules.<sup>42</sup> However, any system of international taxes and levies based on the polluter-pays principle (such as on shipping, air transport or fossil fuel extraction) or the elimination of fossil fuel subsidies that are intended to provide an alternative source of finance for climate action, in particular for urgently needed public grant funding for adaptation and to address loss and damage, must reduce inequalities rather than deepen them.

This means putting the burden primarily on fossil fuel corporations and other high-emitting sectors, for example by increased taxation of their profits or through a progressive climate damages tax;<sup>43</sup> reducing or eliminating harmful tax expenditures and financing (or investments) availed to them; and taxes on wealthier consumers, such as the Brazilian G20 Presidency proposal for a minimum 2% tax on wealth over USD 1 billion.<sup>44</sup> At the same time, measures must be put in place to protect low-income individuals and groups from regressive impacts through social protection measures, grants and tax exemptions and reforms, and by ensuring their access to affordable renewable energy. Windfall profit taxes or one-off taxes on companies or industries when economic conditions result in large, unexpected profits for those businesses<sup>45</sup> also have the potential to contribute significantly towards climate finance. Seven hundred and twenty-two mega-corporations raked in USD 1 trillion a year in windfall profits in 2021 and 2022. Hence a windfall tax of 90% on 2022's windfall profits could generate USD 941 billion.

## RECOMMENDATIONS

### Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:

- Ensure all climate finance is new, adequate, predictable and additional to other forms of development finance.

<sup>36</sup> Only four countries have made a request under the Common Framework for Debt Treatments and the agreement reached with Zambia was effectively vetoed by bilateral creditors. See for example, Rodrigo Olivares-Caminal, *Is Zambia the Piece that will Break the International Financial Architecture?*, 2 January 2024, <https://blogs.law.ox.ac.uk/oblb/blog-post/2024/01/zambia-piece-will-break-international-financial-architecture>

<sup>37</sup> The Guardian, "World Bank official calls for shake-up of G20 debt relief scheme", 21 April 2024, <https://www.theguardian.com/business/2024/apr/21/world-bank-chief-economist-indermit-gill-g20-debt-relief-mechanism-common-framework>

<sup>38</sup> Stamp out Poverty, *The Climate Damages Tax A guide to what it is and how it works*, April 2024, [https://www.greenpeace.org.uk/wp-content/uploads/2024/04/CDT\\_guide\\_2024\\_FINAL-1.pdf](https://www.greenpeace.org.uk/wp-content/uploads/2024/04/CDT_guide_2024_FINAL-1.pdf)

<sup>39</sup> Tax Justice Network, *The State of Tax Justice 2023*, 25 July 2023, <https://taxjustice.net/reports/the-state-of-tax-justice-2023/>

<sup>40</sup> See Amnesty International, *Promotion of Inclusive and Effective Tax Cooperation at the United Nations: Submission to the UN Secretary General 78th General Assembly Session, 5-19 September 2023*, 17 March 2023, Index: IOR 40/6565/2023, <https://www.amnesty.org/en/documents/ior40/6565/2023/en/>

<sup>41</sup> For more information on the interlinkages between human rights and the proposed UN Tax Convention, see *Joint civil society and trade unions submission in response to the call for inputs to the work of the Ad Hoc Committee to Draft Terms of Reference for a United Nations Framework Convention on International Tax Cooperation*, 15 March 2024 Index: IOR 40/7853/2024, <https://www.amnesty.org/en/documents/ior40/7853/2024/en/>

<sup>42</sup> According to the Tax Justice Network, countries are on course to lose USD\$4.8 trillion in tax to tax havens over the next 10 years. See *The State of Tax Justice 2023*, previously cited.

<sup>43</sup> Oil Change International, *Road to COP29: Shifting and unlocking trillions for a just energy transition*, 24 September 2024, <https://www.oilchange.org/publications/road-to-cop29-shifting-and-unlocking-public-finance-for-a-fair-fossil-fuel-phase-out/>

<sup>44</sup> Stamp Out Poverty, *The Climate Damages Tax: a guide to what it is and how it works (2024)*, <https://www.stampoutpoverty.org/the-climate-damages-tax-a-guide-to-what-it-is-and-how-it-works-2024/>

<sup>45</sup> Gabriel Zucman, *A blueprint for a coordinated minimum effective taxation standard for ultra-high-net-worth individuals*, commissioned by the Brazilian G20 Presidency, 25 June 2024, <https://gabriel-zucman.eu/files/report-g20.pdf>

<sup>46</sup> Tax Foundation Europe, "Windfall Profit Taxes in Europe, 2023, 20 June 2023", <https://taxfoundation.org/data/all/eu/windfall-tax-europe-2023/>

- Ensure timely debt relief for all countries in and at risk of debt distress and consider all options for such relief including debt restructuring and/or cancellation.
- Strengthen coordination between multilateral, bilateral and private creditors to offer debt relief to all countries in or at risk of debt distress, which includes:
  - o Reforming the G20 Common Framework for Debt Treatments, including making the process more efficient, transparent, inclusive, and timely.
  - o Ensuring more countries are eligible for comparable relief, and that more creditors participate in debt restructure and relief efforts.
  - o Take steps to ensure that loan agreements provide for the suspension of payments in times of crises, including extreme weather and climate events and other disasters and economic crises.
- Refrain from stipulations in debt agreements that may undermine governments' ability to meet their economic, social and cultural rights obligations, including in relation to the climate crisis.
- Ensure that the terms of bilateral, multilateral and private sovereign lending are transparent and available for, and subject to, public scrutiny.
- Eliminate financing and harmful tax expenditures (including tax breaks) for fossil fuel companies.
- Impose permanent windfall profit taxes.
- Support the development of a UN Framework Convention on International Tax Cooperation that would provide a framework to:
  - o Comprehensively address the problem of both illicit financial flows (IFFs) and commercial practices such as egregious and aggressive tax avoidance with a view to enabling greater domestic resource mobilization particularly in low-income countries to realize human rights- consistent climate action;
  - o Create a global tax governance structure that is fair, transparent and has built-in accountability mechanisms including an Intergovernmental UN Tax Commission with equal representation from each state party and that would aim to harmonize effective fiscal practices and policies based on human rights law and standards.

## ESCALATING FINANCE FOR LOSS AND DAMAGE

“Loss and damage” refers to the residual human rights harms that result from climate change that cannot be prevented by climate action. Under international human rights law, communities and individuals suffering loss and damage have the right to remedy.<sup>46</sup>

At COP27, governments established a Fund for responding to Loss and Damage (FRLD) and other “funding arrangements”<sup>47</sup> for assisting developing countries that are particularly vulnerable to the adverse effects of climate change to respond to loss and damage. This marked a very significant development, which fulfilled a 30-year-long demand from the most affected developing countries. Agreement to operationalize the FRLD as an operating entity under

<sup>46</sup> Amnesty International and the Center for International Environmental Law (CIEL), *Climate-related human rights harm and the right to effective remedy: Joint submission for the UN Secretary General's analytical study on “the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same”*, 13 February 2024, Index: IOR 40/7717/2024, <https://www.amnesty.org/en/documents/ior40/7717/2024/en/>

<sup>47</sup> UNFCCC, “Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage”, Decisions 2/CP.27 UN Doc. FCCC/CP/2022/10/Add.1 and 2/CMA.4, UN Doc. FCCC/PA/CMA/2022/10/Add.1, paras. 1-2, [https://unfccc.int/sites/default/files/resource/cma2022\\_10a01\\_adv.pdf](https://unfccc.int/sites/default/files/resource/cma2022_10a01_adv.pdf), [https://unfccc.int/sites/default/files/resource/cp2022\\_10a01\\_adv.pdf](https://unfccc.int/sites/default/files/resource/cp2022_10a01_adv.pdf)

the financial mechanism of the UNFCCC and Paris Agreement, was reached at COP28,<sup>48</sup> a welcome move, but concerns remained over the lack of human rights references in the governing instrument of the Fund. It is imperative that the FRLD is rooted in human rights principles such as non-discrimination, participation, substantive equality, inclusion, and effective redress and remedy.<sup>49</sup>

In 2024, some progress has been made, including the selection of the Philippines as the Board's host country<sup>50</sup> and the appointment of the executive director. However, the board has yet to make important decisions that will allow the fund to begin supporting frontline communities suffering from unavoidable climate-induced losses and damages. These include how the funds will be allocated; who can access them and how; the criteria for release of funding; and which funds or other financial instruments will be authorised to disburse funds.

In addition, there are also concerns over the choice of the World Bank (WB) as an interim host for the FRLD,<sup>51</sup> and the default position of using WB environmental and social safeguards<sup>52</sup> which are not human rights compliant. Parties at COP29 are expected to confirm the Board's recommendation to agree the World Bank (WB) as the interim host of the fund for four years. So far it has not been possible to adequately assess the capacity of the WB to fully meet all of the 11 conditions set at COP28, as major operational policies remain under development, and the documentation for operationalization of the fund as a WB-hosted financial intermediary fund was not made public until after the board had endorsed it. The proposed host agreement must be scrutinized by parties at COP29 to ensure that it is human rights compliant and that the 11 conditions are fully met.

There are also deep concerns regarding the resource mobilization of the FRLD.<sup>53</sup> The paltry amount of money that some states have pledged so far, totalling USD 678 million, is not even enough to meet the proposed budget of the Board and Interim Secretariat of the FLDF for 2024.<sup>54</sup> Lower income countries have indicated that the FRLD should disburse around USD 1 billion per year while their estimated needs up to 2030 are at least USD 400 billion – which are set to quadruple by 2050,<sup>55</sup> There is thus a massive shortfall between pledged resources and what is needed. However, the Board will not finalise the resource mobilisation strategy to raise funds at the levels needed until the end of 2025,

In addition, the modalities for civil society engagement in meetings of the FRLD and other UNFCCC meetings related to the FRLD have not yet been agreed. There were serious concerns at the limited representation of civil society, and Indigenous People's representatives at the first Board Meeting.<sup>56</sup> A comprehensive participation framework and clear implementation road map that facilitates active and meaningful observer participation and engagement in the governance and activities of the fund by Indigenous Peoples, women, older persons, youth, racialized communities, persons with disabilities and other marginalized groups is needed.<sup>57</sup>

The FLD must be enabled to provide effective remedy, including through direct access mechanisms, to those most affected by the climate crisis, without discrimination, in such a way that it does not put additional pressure on public budgets of developing countries. In this regard, it is disappointing that the COP28 decision restated that "funding arrangements, including a fund, for responding to loss and damage are based on cooperation and facilitation and do not

<sup>48</sup> UNFCCC, Decision 1/CP.28 and 5/CMA.5, "Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4", [https://unfccc.int/sites/default/files/resource/cp2023\\_11a01\\_adv\\_0.pdf](https://unfccc.int/sites/default/files/resource/cp2023_11a01_adv_0.pdf) and [https://unfccc.int/sites/default/files/resource/cma2023\\_16a01\\_adv\\_0.pdf](https://unfccc.int/sites/default/files/resource/cma2023_16a01_adv_0.pdf)

<sup>49</sup> Amnesty International and Centre for International Environmental Law, *Human Rights as a Compass for Operationalising the Loss and Damage Fund*, February 2023, <https://www.amnesty.org/en/documents/ior40/5773/2022/en/>

<sup>50</sup> UNFCCC, "Philippines Selected to Host the Board of the Fund for Responding to Loss and Damage", 12 July 2024, <https://unfccc.int/news/philippines-selected-to-host-the-board-of-the-fund-for-responding-to-loss-and-damage#:~:text=UN%20Climate%20Change%20News,%2012%20July>

<sup>51</sup> At COP28, parties decided that the World Bank must agree to 11 conditions by June 2024 for its hosting of the LDF to be confirmed. UNFCCC, Decision 1/CP.28 and 5/CMA.5, para 20, previously cited

<sup>52</sup> Decision 1/CP.28 and 5/CMA.5, previously cited,

<sup>53</sup> Amnesty International, "Initial pledges at COP28 to finance the Loss & Damage Fund fall far short of what is needed", 30 November 2023, <https://www.amnesty.org/en/latest/news/2023/11/global-initial-pledges-at-cop28-to-finance-the-loss-damage-fund-fall-far-short-of-what-is-needed/>

<sup>54</sup> Fund for responding to Loss and Damage, *Report of the Board to the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session*, 18 September 2024, UN Doc. FLD/B.2/17, [https://unfccc.int/sites/default/files/resource/FLD-B3-02-Report%20of%20the%20interim%20secretariat\\_final\\_Rev1.pdf](https://unfccc.int/sites/default/files/resource/FLD-B3-02-Report%20of%20the%20interim%20secretariat_final_Rev1.pdf)

<sup>55</sup> Climate Analytics, *Impacts of low-aggregate INDC ambition*, 2015, <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/582427/rr-impacts-low-aggregate-indcs-ambition-251115-en.pdf;jsessionid=C2BF26E9CF0705630671F3821B7C7AE9?sequence=1>

<sup>56</sup> Amnesty International, "Loss and Damage Fund for climate change must not restrict the role of civil society", 25 April 2024,

<https://www.amnesty.org/en/latest/news/2024/04/global-loss-and-damage-fund-for-climate-change-must-not-restrict-the-role-of-civil-society/> and *Joint civil society letter to Board of Loss and Damage Fund*, 29 April 2024, <https://docs.google.com/document/d/1Gt2sYP-qiu510GonSxryZFjaLT6x-GTpgj90uBZQ1LA/edit>

<sup>57</sup> For a detailed proposal on elements for a participation framework for the FRLD, see the Loss and Damage Collaboration, *Loss and damage fund: A participation blueprint*, 25 April 2024, <https://www.lossanddamagecollaboration.org/publication/loss-and-damage-fund-a-participation-blueprint-1>

involve liability or compensation".<sup>58</sup> The provision of compensation is a key aspect of the right to an effective remedy under international human rights law. Further processes and mechanisms should be developed to ensure meaningful access to remedy for human rights harms suffered as a result of climate change. Meaningful participation of affected communities is also essential in the process of determining effective and meaningful remedy.<sup>59</sup>

Furthermore, the resources provided to the FRLD must be adequate to address current and future loss and damage, requiring regular review of scale of resources needed. These must also be new and additional to other development funding, in order not to compromise resources needed by lower income countries for the realization of human rights and be mainly disbursed in the form of grants and not loans, to avoid increasing indebtedness. It is crucial that the FRLD is made operational rapidly so that it can begin disbursements as soon as possible, no later than the first quarter of 2025 and ideally before the end of 2024.

It is disappointing that the COP28 decision merely “invites” financial contributions, and “urges” states with obligations to provide means of assistance under the Paris Agreement to contribute support and “encourages” other Parties to do so on a voluntary basis, along with no indication of the scale of finance needed for the fund, or how the scale will increase over time to address increasing loss and damage from ongoing climate change impacts.<sup>60</sup> Insufficient funding to address the needs of affected countries and communities risks undermining the effective functioning of the FRLD from the outset.

Based on the duty of international cooperation and on the duty to provide remedy for human rights violations caused by the failure to prevent foreseeable human rights harm, countries the most responsible for climate change have the obligation to contribute finance to provide remedy for loss and damage. These countries must increase contributions to the FRLD well before COP29 so that it is adequately capitalized, reflecting their greater historical responsibility for emissions and for loss and damage. Other high-emitting countries able to contribute, particularly high emitting G20 and high income fossil fuel producing states, should also do so in line with their obligations to provide international cooperation and assistance and in line with the polluter pays principle. It is disappointing that work on a long-term resource mobilization strategy has not progressed further and is only set to be concluded by the end of 2025.<sup>61</sup> The Board should prioritize the finalization of this strategy as soon as possible.

At COP27, states also agreed on the operationalization of the Santiago Network for Loss and Damage (SNLD),<sup>62</sup> a technical advisory body established in 2019 at COP25 to provide scientific and technical advice and support to countries being affected by loss and damage. At COP28, it was agreed that the hosting organization of the SNLD technical secretariat would be the United Nations Office for Disaster Risk Reduction (UNDRR) and the United Nations Office for Project Services (UNOPS) for an initial term of five years, with five-year renewal periods.<sup>63</sup> The Advisory Board has reached agreement that the Secretariat will be hosted by Switzerland in Geneva, and on proposed rules of procedure that are expected to be adopted at COP29,<sup>64</sup> which include the participation of Active Observers and default access for observers, as well as the possibility for hybrid modalities and transparency of outputs of the Advisory Board. However, pledges and delivery of pledged contributions to the SNLD remain inadequate.<sup>65</sup>

The third review of the Warsaw International Mechanism for Loss and Damage (WIM) is set to be concluded at COP29. With the increasing complexity of the Loss and Damage architecture within the UNFCCC, this is an opportunity to ensure adequate coordination and coherence between the WIM, the SNLD and the FRLD, in coordination with the annual High-

<sup>58</sup> UNFCCC, “Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage”, preamble, Decisions 2/CP.27 and 2/CMA.4, previously cited,

<sup>59</sup> Amnesty International and CIEL, *Climate-related human rights harm and the right to effective remedy*, previously cited

<sup>60</sup> UNFCCC, Decision 1/CP.28 and 5/CMA.5, “Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4”, paras. 12-13, previously cited

<sup>61</sup> Fund for Responding to Loss and Damage, Decisions of the Board – second meeting of the Board, 9–12 July 2024, Annex VII: Workplan of the Board for 2024–2025, Table 2: Resources, UN Doc. FLD/B.2/17, previously cited

<sup>62</sup> Decision 12/CMA.4 and 11/CP.27 “Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts” UN Docs. FCCC/PA/CMA/2022/10/Add.3 and FCCC/CP/2022/10/Add.1

<sup>63</sup> Decision 6/CMA.5, “Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts” UN Doc. FCCC/PA/CMA/2023/16/Add.2

<sup>64</sup> Santiago Network, “Rules of procedure of the Advisory Board of the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change”, adopted at the 3<sup>rd</sup> Advisory Board Meeting, 6 September 2024, [https://assets.santiago-network.org/Common/Documents/Core/SNAB\\_2024\\_3\\_05.Rev.1-Rules-of-procedure-of-the-Advisory-Board-of-the-Santiago-network-06Sep2024-Adopted.pdf](https://assets.santiago-network.org/Common/Documents/Core/SNAB_2024_3_05.Rev.1-Rules-of-procedure-of-the-Advisory-Board-of-the-Santiago-network-06Sep2024-Adopted.pdf)

<sup>65</sup> Santiago Network, Third Meeting of Advisory Board of the Santiago Network 4-6 September 2024, Bonn: Decisions taken by the Advisory Board, 6 September 2024, [https://assets.santiago-network.org/Common/Documents/Core/SNAB-3-decisions\\_6-Sep-2024-final.pdf](https://assets.santiago-network.org/Common/Documents/Core/SNAB-3-decisions_6-Sep-2024-final.pdf)

level Dialogue on complementarity and coherence mandated at COP28.<sup>66</sup> The WIM review should also define its role in relation to the FRLD, and, in particular, clarify how the WIM should contribute to supporting the FRLD.

## RECOMMENDATIONS

### **Amnesty International calls on the Board of the Fund for responding to Loss and Damage at its fourth Board meeting in December 2024 to:**

- Urgently finalize the human rights compliant operationalization of the FRLD, including the additional rules of procedure, the travel policy and the active observer policy to:
  - o Ensure environmental and social safeguards for the fund's activities are fully human rights compliant and adapted to the needs of the Loss and Damage Fund.
  - o Ensure that monitoring mechanisms include human rights indicators and benchmarks that are coherent with human rights monitoring mechanisms in other intergovernmental spaces.
  - o Put in place a robust grievance mechanism that meets the obligation to provide effective remedies to victims of human rights violations and abuses, based on non-discrimination, substantive equality, and gender-responsiveness.
  - o Ensure frontline community voices and civil society are represented in all stages of activities of the FRLD.
- Develop and implement an ambitious, transparent and sustainable fund-raising strategy for the FRLD as soon as possible, and by the end of 2025 at the latest.

### **Ahead of COP29 in November 2024, Amnesty International calls on all UNFCCC parties to:**

- Agree on human rights consistent arrangements of the FRLD by COP29, that meet the obligation to provide effective remedies to victims of human rights violations, based on non-discrimination, substantive equality, inclusion, participation, intersectionality and gender-responsiveness.<sup>67</sup>
- Adopt arrangements with the FRLD that ensure:
  - o Effective and meaningful stakeholder participation, including through hybrid modalities, travel support for Active Observers as a minimum, access to information and by conducting inclusive and human rights-consistent needs assessments;
  - o A transparent monitoring mechanism with human rights indicators and benchmarks;
  - o A robust accountability and grievance mechanisms to redress any violations that occur as the result of the LDF's activities.
- Scrutinize the host agreement with the World Bank to ensure that it fully meets the conditions laid out in the COP28 decision<sup>68</sup> especially in regard to eligibility criteria, direct access for affected communities (including women, children and youth, older persons, people living with disabilities, racialized groups, refugees and migrants, and Indigenous Peoples), and a reasonable and appropriate cost recovery methodology that does not result in excessively high administration costs that reduces funds available for disbursement.
- Ensure the FRLD is rapidly resourced with adequate, predictable, new and additional, needs-based, human rights compliant, gender-responsive finance, based on the polluter pays principle, and that disbursement avoids debt-inducing mechanisms.

<sup>66</sup> UNFCCC, Decision 1/CP.28 and 5/CMA.5, "*Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2-3 of decisions 2/CP.27 and 2/CMA.4*", Annex II, paras. 11-16, previously cited

<sup>67</sup> For more detailed recommendations, see Amnesty International and Centre for International Environmental Law, *Human Rights as a Compass for Operationalising the Loss and Damage Fund*, February 2023, <https://www.amnesty.org/en/documents/ior40/6463/2023/en/>

<sup>68</sup> Decision 1/CP.28 and 5/CMA.5, previously cited, para 20

- Urgently operationalize the SNLD by COP29 at the latest and ensure it is adequately resourced to enable it to deliver technical assistance in a human rights-consistent manner, including:
  - Facilitating meaningful and effective participation of Indigenous Peoples, civil society and affected communities in the operation of the network;
  - Ensuring its activities respond to the needs of those most affected and marginalized, by promoting substantive equality and non-discrimination, and addressing all types of economic and non-economic loss and damage, including by supporting human rights-consistent, inclusive and participatory Loss and Damage Needs Assessments (LDNAs).
- Ensure the third review of the Warsaw International Mechanism for Loss and Damage ensures adequate coordination and coherence between the WIM, the SNLD and the FRLD, in coordination with the COP29 High-level dialogue on complementarity and coherence. The WIM review should also define its role in relation to the FRLD, and in particular, clarify how the WIM should contribute to supporting the FRLD.

**Amnesty International further calls on high income historical emitting states and other states able to do so, particularly high emitting G20 and high income fossil fuel producing states, to:**

- Commit adequate, new, additional and predictable funding to address loss and damage in developing countries, primarily through capitalization of the Fund for responding to Loss and Damage.
- Commit adequate, new, additional and predictable funding to the Santiago Network on Loss and Damage.
- Urgently implement existing funding pledges for loss and damage.

## MAKING FINANCIAL FLOWS CONSISTENT WITH CLIMATE ACTION – A HUMAN RIGHTS-BASED APPROACH TO ARTICLE 2.1C

At COP27, governments decided to launch an official dialogue process on Article 2.1c of the Paris Agreement which refers to “making finance flows consistent with a pathway towards low greenhouse gas emissions (GHG) and climate-resilient development”.<sup>69</sup> This article recognizes that progress towards the agreement’s goals relies not only on finance flowing towards positive climate action measures, but away from harmful practices such as fossil fuel subsidies, finance for fossil fuel extraction, and investments in GHG-intensive industries.<sup>70</sup> Dialogues in 2023 highlighted a lack of common understanding of the article, and the concern of lower income states that action under the article should not hinder the provision of adequate climate finance to lower income states, or impose conditionalities that hamper the achievement of the Sustainable Development Goals.<sup>71</sup> COP28 decisions mandated the continuation of the dialogues in 2024.<sup>72</sup>

The Article 2.1c discussions should be approached in a just, equitable, human rights consistent and gender responsive manner, based on science and should be complementary to the principle of Common but Differentiated Responsibility and Respective Capabilities as defined in Article 9.1 of the Paris Agreement and the obligations for international cooperation and assistance under international human rights law. Article 2.1c should not be interpreted narrowly, as it applies to mitigation, adaptation, and loss and damage.

For mitigation, this requires the realignment of finance to achieve a rapid, just and equitable phase-out of all fossil fuels (coal, oil and methane (so-called ‘natural gas’), with significant reductions to be achieved in line with the need to reduce

<sup>69</sup> Decision 1/CMA.4, Sharm el-Sheikh Implementation Plan, UN Doc. FCCC/PA/CMA/2022/10/Add.1, para 68,

<sup>70</sup> World Resources Institute, “What Is the Paris Agreement’s Article 2.1(c) on Climate Finance, and Why Does it Matter? Key Questions, Answered”, 15 February 2024, <https://www.wri.org/insights/article-2-1-c-paris-agreement-explained>

<sup>71</sup> Sharm el-Sheikh dialogue on the scope of Article 2, paragraph 1(c), of the Paris Agreement and its complementarity with Article 9 of the Paris Agreement: Revised report by the secretariat, UN Doc. FCCC/PA/CMA/2023/7/Rev.1, [https://unfccc.int/sites/default/files/resource/cma2023\\_07r01.pdf](https://unfccc.int/sites/default/files/resource/cma2023_07r01.pdf)

<sup>72</sup> Decision 1/CP.28 and 5/CMA.5, previously cited, paras 90-92

all GHG emissions by at least 43% by 2030 compared to 2019 to reach the 1.5°C target<sup>73</sup> as well as rapidly scaling up and prioritizing finance for investment in renewable energy, targeting countries and regions with lower investment. This requires the immediate end to new fossil fuel investment; divestment from existing fossil fuel infrastructure with a view to a human rights compliant phase out of fossil fuels; avoiding investment in risky and unproven technologies such as carbon capture and storage (CCS) or removals, or geoengineering or in other harmful activities; and ending fossil fuel subsidies, with the finance instead directed towards renewable energy provision and for the just transition to a decarbonized economy.

For adaptation and loss and damage, this requires the provision of new, additional, predictable and adequate primarily public grant-based support to lower income countries to deal with the increasing severity and frequency of climate disasters, address and adapt to current and future climate impacts and build the resilience of people, communities and ecosystems.<sup>74</sup>

A just, equitable and human rights compliant approach to Article 2.1c requires a commitment to, and implementation of, a wide and ambitious agenda of scaling up public climate finance from high income historical emitting countries in line with their obligations under the Paris Agreement, complemented by financial assistance from others in a position to provide it under their obligations to provide international cooperation and assistance – particularly high emitting G20 and high income fossil fuel producing states, and transforming the wider global system of development finance, taxation and debt to make it fairer for developing countries and to address economic injustices often stemming from racism and colonialism. Finance flows under Article 2.1c should not be included in the NCQG, as the NCQG target should reflect public, primarily grants based, new and additional climate finance provision based on the polluter pays principle.

Currently, progress towards implementation of Article 2.1c is hindered by an international financial architecture in which structural inequalities continue to perpetuate the legacies of racism and colonialism including in how taxing rights, trade rules, debt relief and economic development itself are decided on and implemented. High levels of greenhouse gas emissions are the product of centuries of extraction, industrialization, and industrial processes, but the responses to the climate crisis are characterized by the same forms of systemic racism which are causing the climate crisis in the first place.<sup>75</sup> For example, many states' plans for their renewable energy transition are based on a continuation of their "unsustainable levels of consumption"<sup>76</sup> while continuing to rely on the extraction of mineral resources from lower income countries. The flow of wealth out of lower to higher income countries, including through inequitable taxing rights<sup>77</sup> and tax avoidance (which impacts lower income countries the most but takes place predominantly in high income states),<sup>78</sup> trade and structural economic imbalances which limit countries' ability to export<sup>79</sup> and high interest payments on loans,<sup>80</sup> is estimated in the trillions per year and thus many times greater than what is provided through Official Development Assistance (ODA) and climate finance.<sup>81</sup> However, efforts to transform the global financial system are hampered as lower income countries continue to be structurally under-represented in financial and economic decision-making outside the UN, which maintain uneven global power relations that are often rooted in colonial legacies.

<sup>73</sup> IPCC, Climate Change 2023 Synthesis Report: Summary for Policymakers, *Table SPM.1: Greenhouse gas and CO2 emission reductions from 2019, median and 5-95 percentiles*

<sup>74</sup> For more information about necessary approaches to the Article 2.1c discussions, See Climate Action Network, Submission on 2.1c, June 2023, <https://climatenetwork.org/resource/climate-action-network-submission-on-2-1c/>

<sup>75</sup> UN Human Rights Council, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume - Ecological crisis, climate justice and racial justice*, UN Doc. A/77/549, <https://www.ohchr.org/en/documents/thematic-reports/a77549-report-special-rapporteur-contemporary-forms-racism-racial> para 12

<sup>76</sup> *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume - Ecological crisis, climate justice and racial justice*, previously cited para 62

<sup>77</sup> Tax treaties cover 82% of the world's foreign direct investment (FDI) stocks, including 81% of the FDI in lower-income countries. Scholars find that their main effect is "regressive redistribution - to the benefit of the developed countries at the expense of the developing ones. For more information on the inequality of the standards within Tax Treaties, see Martin Hearson, *Imposing standards: the north-south dimension to global tax politics* by (2021), Cornell University Press. Available at: <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/16583/Imposing%20Standards%20The%20North-South%20Dimension%20to%20Global%20Tax%20Politics.pdf>

<sup>78</sup> The International Growth Centre, *How does profit shifting enable tax avoidance in developing countries?*, 7 May 2024, <https://www.theigc.org/blogs/taxing-effectively/how-does-profit-shifting-enable-tax-avoidance-developing-countries>

<sup>79</sup> UNCTAD, *Trade policies and their impact on inequalities*, UN Doc. TD/B/66/4, 6 May 2019, [https://unctad.org/system/files/official-document/tdb66\\_d4\\_en.pdf](https://unctad.org/system/files/official-document/tdb66_d4_en.pdf)

<sup>80</sup> Eurodad, *Debt justice in 2024: challenges and prospects in a full-blown debt crisis*, 23 February 2024, [https://www.eurodad.org/debt\\_justice\\_in\\_2024\\_challenges\\_and\\_prospects\\_in\\_a\\_full\\_blown\\_debt\\_crisis](https://www.eurodad.org/debt_justice_in_2024_challenges_and_prospects_in_a_full_blown_debt_crisis)

<sup>81</sup> See for example, The Guardian, "Aid in reverse: how poor countries develop rich countries", 14 January 2017, <https://www.theguardian.com/global-development-professionals-network/2017/jan/14/aid-in-reverse-how-poor-countries-develop-rich-countries>

## RECOMMENDATIONS

**Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:**

- Ensure the dialogue process on Article 2.1c:
  - o facilitates a rapid end of the financing of new projects, activities and industries that drive fossil fuel expansion and deforestation;
  - o contributes to the phase out of existing fossil fuel funding investments and subsidies within a timeline aligned with the 1.5°C imperative;
  - o addresses the need for finance for just transitions that is not currently covered by climate finance;
  - o contributes to the ongoing discussions about financial system transformation to relieve the unsustainable debt burden on developing countries including through a rules-based debt resolution framework at the UN; and moves to redress economic injustices, including those stemming from colonialism and structural racism such as through more representative decision-making;
  - o is not used to undermine adequate public climate finance provision in the NCQG.

## NEW COLLECTIVE QUANTIFIED GOAL ON CLIMATE FINANCE

A new NCQG for the post-2025 period will be agreed at COP29, to raise the target for funding from a base line of USD 100 billion per year which is highly inadequate. On the **framework for the goal**, the NCQG should set both a short-term (up to 2030) and a medium-term goal (up to 2035). This would enable transparency, accountability, and predictability, but also alignment with the GST/NDC cycle of the Paris Agreement, which would also lend itself to a transparent process for review and increasing ambition in the light of changing needs of lower income states. Strong mechanisms to ensure targets are met and finance delivered must be developed and included in the NCQG, as well as a clear differentiation between targets for public finance provision and wider mobilization of finance, including private finance.

It is also essential for the NCQG to ensure coherence with finance needs identified in other workstreams, particularly the JTWP and in the Glasgow Work Programme on Action for Climate Empowerment (ACE) which is aimed at enhancing climate change education, training, public awareness, public participation, public access to information and international cooperation. For example, there is no clear requirement for a justice element in the provision of mitigation finance, even though such an approach is crucial in ensuring human rights are protected, respected and fulfilled in the planning and implementation of transitions away from fossil fuels in all sectors. Therefore, discussions on mitigation finance should include public finance provisions for strengthening universal social protection systems, as well as economic, social and environmental security, which are critical elements of ensuring just transitions and achieving climate justice.<sup>82</sup> ACE approaches deliver more effective climate action, but there is chronic underfunding of its implementation. It is thus essential that the NCQG is structured in a way to ensure equitable and accessible funding for ACE activities.

It is also important to ensure that the NCQG includes a clear definition of its relationship to implementation of Article 2.1 (c) of the Paris Agreement (see section above), including reiteration of the primary responsibility of high income historical emitting countries, other high emitting G20 states and high income fossil fuel producers to immediately stop all new fossil fuel production plans, and to rapidly reduce and eliminate public and private investments in, and subsidies for, fossil fuels, emission-intensive industries and other activities incompatible with keeping global warming below 1.5°C above pre-industrial levels.

Furthermore, it is essential that there is policy coherence between negotiations at the UNFCCC and in other multi-lateral forums around multi-lateral development bank and international financial institution reform, debt relief (including cancellation where necessary), financing for biodiversity and trade policy negotiations. Human rights, including the obligation for international cooperation and assistance, and climate justice must be at the heart of all matters related to climate finance.

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<sup>82</sup> For information on the human rights case for universal social protection, see Amnesty International, *Rising Prices, Growing Protests: The Case for Universal Social Protection*, 10 May 2023, Index: POL 40/6589/2023, <https://www.amnesty.org/en/documents/pol40/6589/2023/en/>



On the **quantity of finance** needed, with mere weeks to go until COP29, there is a wide divergence in parties' positions, with high income historical emitters refusing to discuss specific numbers, and lower income countries and blocs proposing annual figures from USD 1 trillion to USD 1.4 trillion per year by 2030. Climate Action Network International, a global network of more than 1,900 civil society organisations in over 130 countries, of which Amnesty International is one, has called for a public finance provision quantum of a minimum of \$1 trillion per year in grants and grant-equivalent terms from high income historical emitting to lower income countries, with sub-goals for mitigation, adaptation, and loss and damage (see section on Loss and Damage below) as part of inclusive just transition pathways.<sup>83</sup> CAN International also places this call in the context of a larger accumulating climate debt, highlighted by rights based constituencies in the UNFCCC, of at least USD \$5 trillion per year<sup>84</sup> which is owed by higher income historical high emitting countries to lower income countries as a result of historic legacies and ongoing practices of unfair atmospheric carbon budget appropriation as well as failures to pay promised climate finance, among other issues.<sup>85</sup>

it is imperative that the NCQG:

- is sufficiently ambitious to meet the science-based needs of lower income countries, .
- scales up funding for adaptation in comparison to mitigation.
- includes loss and damage as a third pillar of climate finance in the NCQG.<sup>86</sup>
- includes sub-goals for mitigation, adaptation and loss and damage to ensure adequacy of finance for all climate finance pillars as well as to aid transparency and accountability for delivery.
- integrates finance for the just transition into the target, including economic, social and human rights aspects which may not be covered by existing definitions of climate finance.
- is aligned with finance for the protection of biodiversity, which is essential to protecting the right to a clean, healthy and sustainable environment, and which must also include protection of other human rights, including the rights of Indigenous Peoples, in its planning and delivery.

In addition, the NCQG must include an indicative framework on the **quality of finance** to be provided. As highlighted above, climate finance should be new, additional, predictable and primarily public, in the form of grants or highly concessional loans, and avoid worsening the debt burden of recipient countries. The NCQG must also provide a clear framework for the **sources of finance** which should be based on common but differentiated responsibilities and respective capacities and the polluter pays principle, as well as international human rights law, to contribute towards redressing inequalities and promoting climate and tax justice. (See section on quality of finance above)

## RECOMMENDATIONS

### Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:

- At COP29, agree a New Collective Quantified Goal for international climate finance from 2025 of at least USD 1 trillion a year that:
  - o puts human rights principles and standards at its heart;
  - o is based on scientific evidence and on the full needs of developing countries, including for loss and damage;
  - o sets a five-year dynamic and flexible cycle for review, that includes short term goals for 2030 and mid-term goals for 2035, to enable alignment with GST and NDC cycles;

<sup>83</sup> Climate Action Network, *Submission to the UNFCCC on NCQG*, August 2024, <https://climatenetwork.org/resource/climate-action-network-submission-ncqg/>

<sup>84</sup> For example, research suggests that high income historical emitters could be incurring over \$100 trillion in climate debt to lower income countries by 2050. Fanning, Andrew L. and Hickel, Jason, *Compensation for atmospheric appropriation*, Nature Sustainability, 6 (9). 12 July 2023, pp 1077 – 1086, available at: <http://eprints.lse.ac.uk/id/eprint/119717>

<sup>85</sup> See, for example, UNFCCC Women and Gender Constituency, "Feminists demand wealthy countries #PayUp their climate debt!", 26 July 2024, <https://womensgenderclimate.org/its-time-for-wealthy-countries-to-payup/>

<sup>86</sup> Some lower income states have proposed this. See UNFCCC, *Ad hoc work programme on the new collective quantified goal on climate finance: Report by the co-chairs*, UN Doc. FCCC/PA/CMA/2023/11, 23 November 2023, [https://unfccc.int/sites/default/files/resource/NCQG\\_annual\\_report\\_Published.pdf](https://unfccc.int/sites/default/files/resource/NCQG_annual_report_Published.pdf)

- o allows for regular and timely review and upwards adjustment based on changing needs, while scaling up ambition;
- o provides clear sub-goals for mitigation, adaptation, and loss and damage;
- o is based on the polluter pays principle, and reiterates the primary responsibility of high-income historical emitting countries in providing climate finance, supported by other high emitting G20 countries and high income fossil fuel producing states;
- o promotes the introduction of new taxes on high emitting sectors, particularly on the profits of fossil fuel companies, and on wealthier individuals, for example by endorsing the Brazilian proposal for a 2% tax on wealth over USD 1 billion, to produce finance at scale, while protecting low-income individuals and groups from regressive impacts through social protection measures, grants and tax reforms and ensuring their access to affordable renewable energy;
- o ensures resources mobilized against this goal are new and additional to previous commitments for international development and humanitarian assistance;
- o ensures that resources under the new goal are provided largely in the form of grants instead of loans, particularly for adaptation and loss and damage, including by setting a grant-equivalent core goal or a sub-goal for disbursement as grants;
- o ensures that resources are allocated to support human rights-consistent climate initiatives that redress imbalances of power and discriminations, including in access to funding.

## TECHNOLOGY TRANSFER

One area of increasing concern to lower income countries is the question of technology transfer. The right to enjoy the benefits of scientific progress and its applications is enshrined in Article 15 (b) of the International Covenant on Economic, Social and Cultural Rights. Article 1 (c) of the UNFCCC and Article 10 of the Paris Agreement require all countries to cooperate on technology development and transfer, and Article 4.3 of the UNFCCC requires some high income states to provide financial resources for technology transfer to lower income states. However, the concepts of technology transfer under the UNFCCC and the World Trade Organization conflict. The former highlights the different responsibilities of different countries and distinctive approaches to climate technologies, while the latter builds on the principles of equal treatment and free trade, including intellectual property rights (IPRs).<sup>87</sup>

The UN Committee on Economic, Social and Cultural Rights has highlighted that intellectual property can negatively affect the advancement of science and access to its benefits in various ways and that states should take appropriate measures to avoid its negative effects.<sup>88</sup> Therefore IPRs must not be allowed to hamper technology transfers needed for effective and ambitious climate action. Exclusion of IPRs over such technologies are needed for a systemic response to address the global challenge of climate change. Existing flexibilities to overcome IPR barriers under the World Trade Organization's agreement on trade-related intellectual property rights (TRIPS) are likely to prove inadequate, as these require a case-by-case national response, that - as seen in the treatment of intellectual property rights for Covid-19 tools - is fraught with obstacles and difficulties for developing countries to use the flexibilities and can lead to violations of economic and social rights, including the rights to life, health, sustainable development and to a clean, healthy and sustainable environment.

## RECOMMENDATIONS

**Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:**

<sup>87</sup> Robert Burrell, Su Jung Jee, Kerstin Hötte and Caoimhe Ring, Institute for New Economic Thinking, *Intellectual Property Rights, Climate Technology Transfer and Innovation in Developing Countries*, INET Oxford Working Paper No. 2023-14, August 2023, p52, <https://www.inet.ox.ac.uk/files/intellectual-property-rights-2023-14.pdf>

<sup>88</sup> CESCR, *General Comment 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)*, UN Doc. E/C.12/GC/25, 30 April 2020, <https://undocs.org/E/C.12/GC/25>

- Address trade barriers to necessary climate technology transfer by:
  - o changing global trade rules to ensure that intellectual property rights, as well as knowledge and technology transfer, are not a barrier to access,
  - o identifying and implementing any necessary adjustments to states' intellectual property laws, policies and practices to ensure that climate technology transfer can happen swiftly and equitably and reduce the dependency of low- and middle-income countries on high-income countries and climate technology companies based in them.

## A FULL, FAST, FAIR AND FUNDED FOSSIL FUEL PHASE OUT

The IPCC has highlighted that production from existing fossil fuel infrastructures is already estimated to exceed the remaining carbon budget for limiting warming to 1.5°C.<sup>89</sup> UNEP has further found that governments, in aggregate, still plan to produce more than double the amount of fossil fuels in 2030 than would be consistent with limiting warming to 1.5°C – a global “production gap” that puts a well-managed and equitable energy transition at risk.<sup>90</sup>

The GST outcome at COP28 called for the first time for a “[transition] away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science.” In doing so, it recognized their role as drivers of the climate crisis and the harm that they are inflicting on the climate and environment and gave a strong signal that their phase out is inevitable and underway. However, in the context of a conference dominated by fossil fuel company lobbyists,<sup>91</sup> this reference was weaker than the call for a rapid and equitable phase out that some parties and many observers had pushed for, and does not constitute a firm commitment by states, although their human rights obligations require such a phase out.<sup>92</sup>

The GST outcome also has many loopholes allowing fossil fuel producers and states to continue with business as usual, and so falls short of what is needed to protect the rights of billions of people facing climate harms. These include:

- opening the way to unproven abatement and removal technologies like CCS and carbon removal that do not yet exist at scale. These technologies are either ineffective or unproven, making them a distraction from the need to rapidly phase out the production of fossil fuels.<sup>93</sup> Some governments and fossil fuel companies are already basing their climate action plans on assumptions that these technologies will deliver significant emissions reductions, and using them to justify continued extraction and burning of fossil fuels at rates incompatible with keeping warming below 1.5°C,<sup>94</sup> putting the whole of the planet, including humanity, at risk.

They also come with other high human rights and environmental risks.<sup>95</sup> The UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes has recently highlighted the risks posed by these technologies, including the health and safety risks of

<sup>89</sup> Independent Panel on Climate Change, AR6 Synthesis Report, *Climate Change 2023: Summary for Policymakers*, p20, [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf)

<sup>90</sup> UNEP, *Production Gap Report 2023*, [https://productiongap.org/wp-content/uploads/2023/11/PGR2023\\_web\\_rev.pdf](https://productiongap.org/wp-content/uploads/2023/11/PGR2023_web_rev.pdf)

<sup>91</sup> Amnesty International, “Record number of fossil fuel lobbyists at COP undermines critical climate talks”, 5 December 2023,

<https://www.amnesty.org/en/latest/news/2023/12/global-record-number-of-fossil-fuel-lobbyists-at-cop-undermines-critical-climate-talks>

<sup>92</sup> For more information on why states human rights obligations require a full, fast, fair and funded fossil fuel phase out, see Amnesty International, *Fatal Fuels: Why human rights protection urgently requires a full and equitable fossil fuel phase out*, 13 November 2023, Index: POL 30/7382/2023, <https://www.amnesty.org/en/documents/pol30/7382/2023/en/>

<sup>93</sup> Data from the Independent Panel on Climate Change shows that such mechanisms cannot bring about the scale of emissions reduction required by 2030. See Independent Panel on Climate Change, AR6 Synthesis Report, *Climate Change 2023: Summary for Policymakers*, p28, [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_SPM.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf)

<sup>94</sup> See, for example, ARAMCO, “Carbon capture, utilization, and storage”, <https://www.aramco.com/en/what-we-do/energy-innovation/advancing-energy-solutions/carbon-capture-utilization-and-storage>, accessed on 11 May 2024 and GOV.UK “New vision to create competitive carbon capture market follows unprecedented £20 billion investment” 20 December 2023,, <https://www.gov.uk/government/news/new-vision-to-create-competitive-carbon-capture-market-follows-unprecedented-20-billion-investment>

<sup>95</sup> Center for International Environmental Law, “Carbon Capture and Storage (CCS): Frequently asked questions”, 26 April 2023, <https://www.ciel.org/reports/carbon-capture-and-storage-frequently-asked-questions/>; P. Gunther and P. Ekardt, Human Rights and Large-Scale Carbon Dioxide Removal: Potential Limits to BECCS and DACCS Deployment, *Land*, 2022, Vol 11, Issue 12, <https://www.mdpi.com/2073-445X/11/12/2153>

CCS solutions whilst locking in place fossil fuel-reliance and the associated environmental injustices.<sup>96</sup> The UN Human Rights Council Advisory Committee has also underscored that, at present, the development of any new technologies intended for climate protection, including direct carbon removal and solar geoengineering, and policies to support them “would not be in accordance with the protective standards of the human rights regime”.<sup>97</sup>

- highlighting the role of ‘transitional fuels’ such as fossil methane gas (so-called ‘natural gas’) in the energy transition despite the clear indications from the International Energy Agency that any new fossil fuel development is incompatible with reaching zero emissions in 2050,<sup>98</sup> and emerging scientific evidence showing that, due to its heat-trapping potency in the short-term, fossil methane gas use could precipitate catastrophic climate tipping points<sup>99</sup> and, due to leakage far beyond what is reported, may in some circumstances pollute the air more than coal.<sup>100</sup> Methane is estimated to be responsible for about one third of global warming since pre-industrial times.<sup>101</sup> The extraction of methane also causes major human rights harms for fenceline communities, for example, severe health impacts caused by flaring.<sup>102</sup>
- failure to provide a clear commitment to phasing out all fossil fuel subsidies, instead only referencing undefined “inefficient subsidies” as in previous COPs.
- limiting the transition away from fossil fuels only to “energy”, thereby allowing continued hydrocarbon extraction and use in the production of plastics, petrochemicals, pesticides, fertilizers and other chemicals, which all contribute significantly to the production of GHGs and to global warming. Worryingly, plastic production is projected to double or triple by 2050 and would use between 21 to 31 % of the remaining carbon budget.<sup>103</sup>

However, one failure in the GST outcome is the lack of a clear mechanism to follow up on the decision, particularly in relation to the renewable energy transition.<sup>104</sup> This could be rectified by transforming the Mitigation Work Programme into a mechanism that can facilitate implementation of the GST mitigation outcomes.<sup>105</sup>

Parties to the Paris Agreement are required to submit new, more ambitious emissions reduction plans in the form of their new NDCs, which should be presented by early 2025 at the latest. NDCs must strengthen 2030 emission reduction targets and adopt policies and plans across all sectors that are fully aligned with the 1.5°C imperative, with high income historic emitters leading the way, supported by other high emitting G20 and fossil fuel producing states.

Additionally, at COP28, states failed to adopt clear measures to ensure that carbon market activities under Article 6 of the Paris Agreement only include those that allow for rapid, genuine emission reductions. Without such measures, polluters can use them to offset – rather than actually reduce – their GHG emissions by buying carbon credits for schemes involving Indigenous Peoples’ lands or that risk harming the rights of fenceline communities.

While it was positive that flawed texts were not adopted at COP28, with decisions expected at COP29, the lack of agreed guidelines means that carbon markets, particularly bilateral measures that would operate under Article 6.2, are operating

<sup>96</sup> Human Rights Council Fifty-fourth session, *The toxic impacts of some proposed climate change solutions Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes*, Marcos Orellana, UN Doc. A/HRC/54/25, 13 July 2023, para. 70

<sup>97</sup> UN Human Rights Council 54<sup>th</sup> session, *Impact of new technologies intended for climate protection on the enjoyment of human rights: Report of the Human Rights Council Advisory Committee*, UN Doc. A/HRC/54/47, 10 August 2023, para 66

<sup>98</sup> International Energy Agency, *Net-Zero by 2050*, May 2021, <https://www.iea.org/reports/net-zero-by-2050> and its 2023 update, <https://www.iea.org/reports/net-zero-roadmap-a-global-pathway-to-keep-the-15-0c-goal-in-reach/executive-summary>

<sup>99</sup> The Guardian: Revealed: 1,000 super-emitting methane leaks risk triggering climate tipping points | Greenhouse gas emissions | The Guardian

<sup>100</sup> The New York Times, “Leaks can make natural gas as bad for the climate as coal, a study says”, 13 July 2023, <https://www.nytimes.com/2023/07/13/climate/natural-gas-leaks-coal-climate-change.html#:~:text=Natural%20gas%2C%20long%20seen%20as,leaks%20that%20plague%20its%20use>

<sup>101</sup> International Energy Agency, *Global Methane Tracker 2024*, <https://www.iea.org/reports/global-methane-tracker-2024>

<sup>102</sup> Amnesty International, *Ecuador: Child Climate Justice activist intimidated in her home*, 4 March 2024, Index: AMR 28/7775/2024, <https://www.amnesty.org/en/documents/amr28/7775/2024/en/>

<sup>103</sup> Karali, N., Khanna, N., & Shah, N., *Climate Impact of Primary Plastic Production* in Lawrence Berkeley National Laboratory. Report #: LBNL-2001585, 12 April 2024, available at <https://escholarship.org/uc/item/12s624vf>

<sup>104</sup> UNFCCC, *Decision 1/CP.28 and 5/CMA.5*, previously cited, paras 18-42

<sup>105</sup> See, for example, UNFCCC, *Submission from Brazil with views on opportunities, best practices, actionable solutions, challenges and barriers relevant to the topics of the fourth Global Dialogue and fourth investment-focused event under the Sharm el-Sheikh Mitigation Ambition and Implementation Work Programme*, 30 September 2024, [https://www4.unfccc.int/sites/SubmissionsStaging/Documents/202409301208---MWP\\_view\\_Brazil.pdf](https://www4.unfccc.int/sites/SubmissionsStaging/Documents/202409301208---MWP_view_Brazil.pdf)

in a limbo, although an increasing number of such deals are being made.<sup>106</sup> There are increasing concerns that carbon markets are indeed causing human rights harms. The UN Special Rapporteur on the Rights of Indigenous Peoples recently said that a moratorium on carbon markets could be a solution to protect the rights of Indigenous Peoples.<sup>107</sup> He also noted that a proposed grievance mechanism under discussion had many flaws and needed to be substantially strengthened before it is adopted.<sup>108</sup> A draft grievance procedure was subsequently adopted by the Article 6.4 Subsidiary Body in May 2024,<sup>109</sup> but failed to address many concerns of Indigenous Peoples and civil society organizations.<sup>110</sup> The draft mechanism should be revised to provide a fully human rights compliant, independent, accessible, and transparent grievance process, before market or non-market activities can take place.

## RECOMMENDATIONS

### Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:

- Commit to a rapid, equitable human rights compliant and funded fossil fuel phase out across all sectors that is in line with the 1.5°C imperative, with high income historical emitting countries leading the way, along with other high emitting G20 states and high income fossil fuel producing states.
- Avoid reliance on fossil gas as a ‘transition fuel’ or on technologies that are ineffective, unproven, have serious human rights implications and/or which cannot be scaled up within the time frame we have left to limit global heating to 1.5°C.
- Cease all new oil, gas, and coal exploration and development:
  - Immediately end all subsidies for fossil fuel extraction and use, while protecting the most vulnerable from regressive effects.
  - Higher income countries should stop financing fossil fuel expansion in other countries, as emission reduction targets cannot be met by simply shifting sources of production to lower income countries.
- Ensure that the Work Programme to Scale Mitigation Ambition and Implementation and other COP29 decisions deliver actions which effectively close the emission and implementation gap and deliver on the GST mitigation outcomes, to keep the increase of global average temperatures below 1.5°C.
- Place human rights at the heart of new NDCs, including by:
  - strengthening 2030 emission reduction targets and ensuring they are fully aligned with the 1.5°C imperative, with high income historical emitting countries leading the way, supported by other high emitting G20 and high income fossil fuel producing states;
  - adopting and implementing adequate sectoral policies for emissions reductions.
- Join the Beyond Oil and Gas Alliance and Powering Past Coal Alliance and endorse the call to adopt and implement a Fossil Fuel Non-Proliferation Treaty.
- Adopt measures to ensure that carbon market activities only include those that allow for rapid, genuine emission reductions and facilitate the transition away from fossil fuels and do not include CCS and carbon removal mechanisms.

<sup>106</sup> UN Sustainable Development Solutions Network, *What Happened to Global Carbon Markets at COP28?*, 20 December 2023, <https://www.unsdsn.org/what-happened-to-global-carbon-markets-at-cop#:~:text=The%20collapse%20in%20negotiations%20was,US%20wanting%20more%20lax%20rules>.

<sup>107</sup> Amnesty International, “UN Special Rapporteur is right to raise human rights concerns about carbon markets”, 27 April 2024, <https://www.amnesty.org/en/latest/news/2024/04/global-un-special-rapporteur-is-right-to-raise-human-rights-concerns-about-carbon-markets/>

<sup>108</sup> Amnesty International, Comments on draft appeal and grievance process under the Article 6.4 mechanism of the UNFCCC, 22 April 2024, Index: IOR 40/7973/2024, <https://www.amnesty.org/en/documents/ior40/7973/2024/en/>

<sup>109</sup> UNFCCC Article 6.4 Supervisory Body, *Procedure Appeal and grievance processes under the Article 6.4 mechanism Version 01.0*, 2 May 2024, <https://unfccc.int/sites/default/files/resource/a64-sb011-a03.pdf>

<sup>110</sup> See for example Amnesty International, *Comments on draft appeal and grievance process under the Article 6.4 mechanism of the UNFCCC*, 22 April 2024, Index: IOR 40/7973/2024, <https://www.amnesty.org/en/documents/ior40/7973/2024/en/>

- Before allowing any carbon market activities to take place:
  - Establish concrete mechanisms to ensure carbon market activities for emission reductions are properly regulated and respect human rights, without introducing exceptions related to national circumstances and/or practice concerning environmental and human rights impacts, and
  - Ensure the draft grievance and redress mechanism is strengthened to ensure that it is fully human rights compliant, independent, accessible, and transparent and effectively enables communities to seek remedy for any harm caused by projects carried out under Article 6.
- Avoid allowing carbon offsetting schemes for countries and companies, as this undermines actual emissions reductions.<sup>111</sup>

## REALIZING JUST TRANSITIONS TO ZERO CARBON ECONOMIES

The current economic system, underpinned by historical systems of racism and colonialism, is failing to deliver the realization of the rights of billions of people. Amnesty International has launched the 2048 Commission<sup>112</sup> - a thematically diverse initiative born out of the current multiple environmental and economic crises and conflict and an international system unable to address current and future challenges - to revitalize global human rights governance.

To address these economic inequalities with human rights centred policies, the world's leaders must have a true comprehension of the state of their economies, human progress and equality. To do that, measures of achievement must centre metrics that focus on equality, human rights, dignity and sustainability to arrive at a global prosperity definition, alongside narratives of success and failure, that challenges unsustainable economic growth and addresses structural and systemic inequalities. To this end, states should support the process for developing a framework on measures of progress on sustainable development, including its economic, social and environmental dimensions, to complement and go beyond gross domestic product as agreed in the UN Pact for the Future in September 2024.<sup>113</sup>

The IPCC's last report found that the consideration of climate justice can help equitable sharing of benefits and burdens, especially for "the most vulnerable within and across countries and regions".<sup>114</sup> It also indicated that neglecting issues of justice risks a backlash against climate action generally, particularly from those who stand to lose from such actions, and it will also have implications for the pace, scale and quality of the transition.<sup>115</sup> In this regard, the adoption of the JTWP at COP28<sup>116</sup> was a welcome step and is a huge opportunity for human rights to be centred in international negotiations around how to realize fully just transitions from fossil fuel production and use to zero carbon economies, an important step in the global transformation needed.

Further action must be taken through the JTWP to ensure the transition to renewable energy and a zero-carbon economy is carried out with full respect for the human rights of impacted workers, Indigenous Peoples, and fenceline communities where new infrastructure will be constructed, including ensuring access to renewable, reliable and affordable energy for all. Laws, policies and measures should provide appropriate socio-economic interventions including comprehensive and universal social protection and investment in re-employment opportunities, skills and training.<sup>117</sup>

<sup>111</sup> Joint Statement: *Why carbon offsetting undermines climate targets*, 2 July 2024, <https://www.amnesty.org/en/documents/ior40/8251/2024/en/>

<sup>112</sup> Dag Hammarskjöld Foundation, *Dag Hammarskjöld Lecture 2021: Agnès Callamard - A Global Compact for a World beyond COVID*, <https://www.daghammarskjöld.se/wp-content/uploads/2021/09/2021-dh-lecture-callamard-final.pdf>

<sup>113</sup> UN, *Summit of the Future Outcome Document*, UN Doc. *A/RES/79/1*, Action 53, para 81, available at: [http://www.un.org/en/summit-of-the-future?\\_gl=1\\*1x09zv\\*\\_ga\\*MTE3MDIyMDcyNC4xNzE4MjkyNjMw\\*\\_ga\\_TK9BQL5X7Z\\*MTcyODU2MTk5NS4yLjEuMTcyODU2MjQ0Mi4wLjAuMA..](http://www.un.org/en/summit-of-the-future?_gl=1*1x09zv*_ga*MTE3MDIyMDcyNC4xNzE4MjkyNjMw*_ga_TK9BQL5X7Z*MTcyODU2MTk5NS4yLjEuMTcyODU2MjQ0Mi4wLjAuMA..)

<sup>114</sup> The IPCC also notes that "[v]ulnerability is higher in locations with poverty, governance challenges and limited access to basic services and resources, violent conflict and high levels of climate-sensitive livelihoods (e.g., smallholder farmers, pastoralists, fishing communities)". And that the "largest adaptation gaps exist among lower income population groups ... and adaptation progress is unevenly distributed with observed adaptation gaps". It also points out that "[p]resent development challenges causing high vulnerability are influenced by historical and ongoing patterns of inequity such as colonialism, especially for many Indigenous Peoples and local communities ... Vulnerability is exacerbated by inequity and marginalisation linked to gender, ethnicity, low income or combinations thereof, especially for many Indigenous Peoples and local communities". IPCC, *Synthesis Report of the IPCC Sixth Assessment Report (AR6) - Longer Report*, 2023, p.66

<sup>115</sup> IPCC Sixth Assessment Report, Chapter 17, page 1769, [https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC\\_AR6\\_WGIII\\_Chapter17.pdf](https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Chapter17.pdf)

<sup>116</sup> UNFCCC Decision 3/CMA.5, United Arab Emirates Just Transition work programme, [https://unfccc.int/sites/default/files/resource/cma5\\_auv\\_5\\_JTWP.pdf](https://unfccc.int/sites/default/files/resource/cma5_auv_5_JTWP.pdf).

<sup>117</sup> For more information, see Amnesty International, *Putting the 'just' in Just Transition – the imperative for human rights approaches*, 4 September 2024, <https://www.amnesty.org/en/documents/ior40/8485/2024/en/>

The IPCC identified four pathways as critical to ensuring a 1.5°C pathway: 1) energy system transitions, 2) land, ocean and ecosystem transitions, 3) urban and infrastructure system transitions, and 4) industrial systems transitions.<sup>118</sup> The JTWP should focus on how all just transition pathways intersect and contribute to the fulfilment of human rights as well as to the reduction of inequalities within and between countries. It is essential for the JTWP to implement an intersectional and intergenerational approach to ensure that principles of equality and non-discrimination, gender equality and women's and girls' rights, labour rights, the rights of Indigenous Peoples, children, older persons, person living with disabilities, racialized individuals and the rights of future generations are at the core of all just transition pathways. It is also essential for the JTWP to recognize the key role of EHRDs and climate activists - who are under attack around the world for their legitimate work - in achieving just transitions. Their contribution to just transition should thus be recognized, encouraged and promoted as they play a vital role of monitoring and reporting human rights violations, holding governments and corporations accountable.

The JTWP should cover areas where just transition discussions are only starting and create the space for sharing developing work in all sectors, and across all workstreams of the UNFCCC, with the objective of finding common ground for elaborating recommendations. The role of the corporate sector is also key in realizing fully just transitions and the JTWP should adopt this as a key thematic priority, anchored in the UN Guiding Principles on Business and Human Rights. The JTWP should also address the obligation to provide international cooperation and assistance for just transition, including adequate finance, technology transfer, capacity building and other forms of support, including ensuring coherence with the NCQG discussions.<sup>119</sup>

Access to information, participation, and justice are important procedural rights that are needed to underpin effective just transitions. The JTWP should address these rights and ensure they are embedded in its outcomes, recommendations, and its own procedures. A just transition process that does not respect human rights cannot result in an equitable outcome.<sup>120</sup>

To ensure effective public participation in the JTWP, groups affected by the transition away from fossil fuels should be represented through an Advisory Body to the JTWP, whose mandate includes summarizing progress, identifying areas where synergy, cooperation and further discussion are needed between sessions, and recommending actions for decision. The Advisory Body's composition should be balanced between higher income and lower income country representation, and include Party experts on just transition. It should also include self-selected active observers from civil society, including representatives of trade unions, Indigenous Peoples, women, youth, older persons, persons living with disabilities, and representatives from communities that are low income and/or racialized and otherwise minoritized, as well as representatives from Intergovernmental organizations and independent experts. Observers should be able to participate routinely in all meetings of the JTWP, including by being allowed to take the floor, suggest agenda items, and be active in all working groups, committees, or other forms of division of work and activities of the JTWP and its Advisory Body.

The JTWP is currently missing an action plan to help ensure that the human rights, needs and aspirations of people across the globe are met, especially those of the most marginalized and those affected by transitions away from fossil fuels in all sectors. COP29 is an opportunity to start negotiations around the adoption of a Just Transition Action Plan, that contributes to human rights protections and to increased international cooperation for its implementation, with a view to adopting it at COP30 in 2025. This would help create a shared understanding of how just transition plans can achieve climate justice.

## RECOMMENDATIONS

### **Ahead of COP29 in November 2024, Amnesty International calls on all parties to the UNFCCC to:**

- Ensure the JTWP and national just transition plans enhance a collective understanding of possible just transition pathways and action to facilitate implementation and create synergies between climate action, social and

<sup>118</sup> IPCC, Climate Change 2023 Synthesis Report: Summary for Policymakers, section C3.2 – 3.6

<sup>119</sup> For more information on elements for the Just Transition Work Programme, see CAN International, Submission: Views on different elements of the work programme on just transition pathways referred to in paragraph 52 of decision 1/CMA.4 September 2023, <https://climatenetwork.org/wp-content/uploads/2023/09/CAN-JTWP-Submission.pdf>

<sup>120</sup> For more information on suggested work to be undertaken and the possible topics for the dialogues under the Just Transition Work Programme, see Human Rights and Climate Change Working Group, *Respecting, Promoting, and Fulfilling Human Rights in the Just Transition Work Programme: Submission on views on the work to be undertaken and the possible topics for the dialogues under the Just Transition Work Programme*, February 2024, Index: IOR 40/7743/2024, <https://www.amnesty.org/en/documents/ior40/7743/2024/en/>

intergenerational justice, human rights and the reduction of inequalities between and within countries by:

- Facilitating a rapid and human rights-consistent transition to zero-carbon economies, including access to renewable, reliable, and affordable energy produced in a manner consistent with human rights for all and that benefits fenceline communities.<sup>121</sup>
- Translating policies and plans into effective, human rights compliant measures to protect workers, fenceline communities, and human rights defenders involved in just transition pathways, including by prioritizing the creation of decent work opportunities in affected areas and communities through appropriate investment, reskilling, training and other assistance for job seekers,
- Ensuring that social protection measures are sufficient both in terms of coverage and level of support to mitigate the negative impacts on the rights of frontline and fenceline communities.
- Ensure the JTWP serves as a catalyst of further action, including by establishing a Just Transition Action Plan that contributes to:
  - Identifying gaps, barriers and challenges in just transition strategies and best practices to overcome them;
  - Providing recommendations to advance a rapid and human rights-consistent just transition, including by:
    - Designing guidance for the development of human rights-compliant inclusive and equitable national just transition strategies that ensure effective public participation in decision making, particularly for Indigenous Peoples and other affected communities and individuals, including aspirational pathways to support action at all levels, as well as indicators that can be used for monitoring progress towards just transition at the local, national and regional level;
  - Publicly recognizing the importance of the work of human rights defenders involved in just transition pathways and engaging in dialogue with them on best practices for their support and protection;
  - Recommending decisions to relevant UNFCCC bodies to ensure just transition principles are integrated coherently in all processes and workstreams;
  - Serving as a space for accountability and peer-to-peer evaluation of all just transition initiatives whether inside or outside the UNFCCC, including by:
    - Taking stock of progress made on issues related to just transition in other UNFCCC workstreams, including ACE, and under voluntary initiatives, such as the Just Energy Transition Partnerships;<sup>122</sup> and providing recommendations for developing future just transition partnerships that are fully human rights compliant;
  - Establishing an Advisory Body for the JTWP, with representation from all stakeholders and a balance between developed and developing countries, that is mandated to monitor and summarize progress, identify areas for intersessional discussion and agreement, and recommend decisions for all relevant UNFCCC bodies and processes. The Advisory Body and all meetings of the JTWP should be open to self-selected observers from civil society and Indigenous Peoples who should be able to participate in all aspects of the JTWP’s work before decisions are taken.

<sup>121</sup> A fenceline community lives immediately adjacent to highly polluting facilities, in this case, those living in the vicinity of energy transition projects including for the production of renewable energy or the extraction of transition minerals. See: The Climate Reality Project, *Frontline and Fenceline Communities*, <https://www.climateRealityProject.org/frontline-fenceline-communities>

<sup>122</sup> Just Energy Transition Partnerships (JETPs) are financing cooperation mechanisms aimed at supporting heavily coal-dependent emerging economies make a just energy transition. The first JETP was announced at COP26 in 2022 between South Africa and France, Germany, the European Union and the United States. Other subsequent JETPs have been launched to benefit Indonesia, India, Vietnam, and Senegal.



# INCLUSIVE AND EFFECTIVE PARTICIPATION

## RESTRICTIONS ON FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY IN HOST COUNTRIES

The meaningful participation of a broad range of civil society actors and Indigenous Peoples at UN climate conferences and the exercise of their rights to freedom of expression, association and peaceful assembly are crucial to ensure scrutiny of governmental action and to provide diverse inputs that can shape states' decisions. The right to freedom of expression includes the right to access information and cannot be fully enjoyed without protection of the right to privacy, particularly when people are under unlawful surveillance or are not able to share views and ideas safely.<sup>123</sup> Free and safe exercise of these rights is therefore essential to foster global efforts to address the climate crisis.

Agreed conclusions of the UNFCCC's Subsidiary Body for Implementation (SBI) in June 2023<sup>124</sup> and reiterated in June 2024 encouraged all hosts of UNFCCC meetings to reaffirm their commitment to upholding the purposes and principles of the UN Charter and international human rights law before, during and after UNFCCC sessions and mandated events, and to ensure that participants can exercise their human rights without fear of intimidation and repercussions.

The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has also made useful recommendations on civil society participation in multilateral institutions<sup>125</sup> and on the essential nature of these rights to advancing climate justice,<sup>126</sup> including the establishment of focal points on reprisals at both national level and in multilateral forums such as the UNFCCC. The Special Rapporteur also recommended that "multilateral organizations should not organize major events likely to draw protests in locations where they cannot receive assurances that local authorities have the political will and technical capacity to uphold international standards", and that multilateral institutions should "require domestic authorities to produce a report detailing how demonstrations, protests and other public gatherings around international events were managed by police, and that such reports be made public".<sup>127</sup> The Special Rapporteur also called for the repeal of laws and practices that illegitimately restrict the place where, and manner in which, protests may take place, including laws criminalizing protests at or near business work sites as well as blanket bans on particular forms of protest.

However, there have been numerous instances of human rights violations at previous COPs, including with regards to access to such meetings. For example, COP24 was held in 2018 in Poland, a country where there was an ongoing crackdown on peaceful protests, including against environmental defenders.<sup>128</sup> Using national security legislation, staff members and activists of environmental organizations were denied entry to the country and others questioned in their hotel rooms.<sup>129</sup> At COP25 in Spain, activists, frustrated at the lack of progress in the talks, staged a protest inside the negotiations venue and were roughly removed from the room by UN Security officials and all observers were temporarily banned from the negotiations.<sup>130</sup> Up to 300 protestors were "de-badged" although their badges were later returned after negotiations.<sup>131</sup>

<sup>123</sup> The right to privacy is enshrined in Article 12 of the Universal Declaration of Human Rights and guaranteed by Article 17 of the International Covenant on Civil and Political Rights, as well as regional human rights instruments. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted that "The right to privacy is often understood as an essential requirement for the realization of the right to freedom of expression. Undue interference with individuals' privacy can both directly and indirectly limit the free development and exchange of ideas." Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, 17 April 2013, UN Doc. A/HRC/23/40, para 24

<sup>124</sup> UNFCCC Report of the Subsidiary Body for Implementation on its fifty-eighth session, held in Bonn from 5 to 15 June 2023, UN Doc. FCCC/SBI/2023/10, para 127

<sup>125</sup> UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the exercise of the rights to freedom of peaceful assembly and of association in the context of multilateral institutions, 1 September 2014, UN Doc. A/69/365

<sup>126</sup> UN General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice, 23 July 2021, UN Doc. A/76/222

<sup>127</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (2014), para.87 (l), previously cited

<sup>128</sup> Amnesty International, *The Power of 'the Street': Protecting the Right to Peaceful Protest in Poland*, 25 June 2018, Index: EUR 37/8525/2018, <https://www.amnesty.org/en/documents/eur37/8525/2018/en/>

<sup>129</sup> Amnesty International, *Poland: Arrests and refusal of entry to environmentalists during the COP24 climate talks*, 11 December, 2018, Index: EUR 37/9550/2018, <https://www.amnesty.org/en/documents/eur37/9550/2018/en/>

<sup>130</sup> Joint CSO Statement from COP25: "UNFCCC de-badges civil society engaged in peaceful protest, removing access to all Observers, in unprecedented crackdown on dissent", available at: <https://350.org/press-release/joint-cso-statement-from-cop25-unfccc-de-badges-civil-society-engaged-in-peaceful-protest-removing-access-to-all-observers-in-unprecedented-crackdown-on-dissent/>

<sup>131</sup> UNFCCC, Joint Statement Between the UNFCCC and some Observer Organizations, 12 December 2019, <https://unfccc.int/news/joint-statement-between-the-unfccc-and-some-observer-organizations>

COP26 was held in the United Kingdom, a country with an increasing official intolerance to peaceful environmental and climate protest in the run up to and since COP26.<sup>132</sup> Protesters reported instances of heavy-handed policing, with likely instances of excessive use of force on some occasions to remove protesters, as well as reports of police misusing their “Stop and Search” powers in individual interactions with protesters.<sup>133</sup>

COP27 in Egypt, a country with an ongoing crackdown on civil society,<sup>134</sup> was marred by access issues, including high hotel prices<sup>135</sup> and food costs<sup>136</sup> within the UNFCCC space, as well as reports of harassment and unlawful surveillance of some civil society participants. At least one participant registered to attend events in the Green Zone was denied access, despite having a valid visa.<sup>137</sup> Scores of Egyptian nationals were arbitrarily detained and interrogated in the run up to COP27 by the Supreme State Security Prosecution on suspicion of supporting calls for peaceful protests during the conference,<sup>138</sup> leading to a climate of fear for participants attending.

COP28 in the United Arab Emirates - a state with effectively no civic space which has not ratified core human rights treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Rights<sup>139</sup> and where human rights organizations such as Amnesty International have not been able to visit to research the human rights situation for a decade - was held in an extremely repressive atmosphere, leading to self-censorship of many attendees. Despite touting the conference as “the most inclusive COP ever”, the UAE, emboldened by the lack of public calls for action to improve the human rights situation from other states ahead of the conference, highlighted its disregard for human rights during COP28 itself, by initiating a fresh trial of 78 people detained for political reasons, instead of releasing them.<sup>140</sup>

As in Egypt, the lack of guarantees to hold peaceful protests outside the UN-run “Blue Zone” meant that the conference venue was the only space for climate justice activism. Protests are generally not permitted in UN spaces, but the UNFCCC Secretariat grants permission for some so-called “advocacy events” to take place in the “Blue Zone”, after undergoing an authorization process to agree format, place, time and content.<sup>141</sup> However, at COP28, the UNFCCC Secretariat imposed unprecedented restrictions on peaceful protest and other forms of free expression at “advocacy events” and press conferences within the “Blue Zone”, particularly in relation to events on the situation in Gaza or highlighting restrictions on human rights within the UAE.<sup>142</sup> Amnesty International and other organizations found that these restrictions were similarly imposed by the UNFCCC Secretariat at the Bonn Climate Conference in June 2024, particularly in relation to a request to hold an “advocacy event” raising the situation of human rights defenders and climate activists in several countries, including past COP hosts.

The UNFCCC should therefore ensure that the rights to freedom of expression and peaceful assembly in the “Blue Zone” are not unduly restricted in future meetings, including in Azerbaijan for COP29.

## INVESTIGATIONS OF COMPLAINTS OF HARASSMENT IN THE “BLUE ZONE”

The UNFCCC has stated that it has zero tolerance for harassment of participants. It widely promotes adherence to a Code of Conduct for meetings and provides details of how to report complaints.<sup>143</sup> Despite these positive steps, there is little

<sup>132</sup> UN Special Rapporteur on Environmental Defenders under the Aarhus Convention: *Visit to London, United Kingdom of Great Britain and Northern Ireland, 10-12 January 2024: End of mission statement*, 23 January 2024, [https://unece.org/sites/default/files/2024-01/Aarhus\\_SR\\_Env\\_Defenders\\_statement\\_following\\_visit\\_to\\_UK\\_10-12\\_Jan\\_2024.pdf](https://unece.org/sites/default/files/2024-01/Aarhus_SR_Env_Defenders_statement_following_visit_to_UK_10-12_Jan_2024.pdf)

<sup>133</sup> Amnesty International UK, *Amnesty Briefing on the Policing of Protest at COP26*, August 2022, available at <https://www.amnesty.org.uk/blogs/scottish-human-rights-blog/policing-cop26-and-right-protest-scotland>

<sup>134</sup> See Amnesty International's country page on Egypt for more details on the human rights situation in the country. <https://www.amnesty.org/en/location/middle-east-and-north-africa/north-africa/egypt/report-egypt/>

<sup>135</sup> Politico, “Egypt’s COP27 PR disaster”, 10 November 2022, <https://www.politico.eu/article/egypts-cop27-pr-disaster-alaa-abd-el-fattah/>

<sup>136</sup> Al-Ahram, Food prices cut by 50% for COP27 participants; drinks offered for free, 10 November 2022, <https://english.ahram.org.eg/NewsContent/10/1255/479527/COP/Sharm-ElSheikh/In-Photos-Food-prices-cut-by--for-COP-participants.aspx>

<sup>137</sup> Amnesty International, Egypt: Prominent Italian human rights activist banned from entering Egypt to participate in COP 27, 10 November 2022 Index: MDE 12/6194/2022, <https://www.amnesty.org/en/documents/mde12/6194/2022/en/>

<sup>138</sup> Amnesty International, “Egypt: Arrests over calls for protests during COP27 expose reality of human rights crisis”, 6 November 2022, <https://www.amnesty.org/en/latest/news/2022/11/egypt-arrests-over-calls-for-protests-during-cop27-expose-reality-of-human-rights-crisis/>

<sup>139</sup> The UAE has ratified other core human rights treaties. See OHCHR, Ratification Status for United Arab Emirates, [tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=184&Lang=EN](http://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=184&Lang=EN), last accessed 7 October 2023

<sup>140</sup> Amnesty International, *Urgent Action: United Arab Emirates: Further Information: Sham Mass Trial of 84 Emirati Men Ongoing*, 14 February 2024, Index: MDE 25/7716/2024, <https://www.amnesty.org/en/documents/mde25/7716/2024/en/>

<sup>141</sup> See for example UNFCCC, *Observer Handbook for SB 60*, slides 34-35, <https://unfccc.int/sites/default/files/resource/Observer%20Handbook%20for%20SB60.pdf><sup>141</sup>

<sup>142</sup> The Guardian, “Environmental campaigners filmed, threatened and harassed at COP28”, 20 December 2023, <https://www.theguardian.com/environment/2023/dec/20/threats-intimidation-creating-climate-of-fear-un-cop-events>

<sup>143</sup> UNFCCC, *Code of Conduct for UNFCCC Events*, <https://unfccc.int/about-us/code-of-conduct-for-unfccc-conferences-meetings-and-events> accessed on 11 May 2024.

information on the UNFCCC website regarding the process of investigation should complaints be made, other than a statement that complainants will be “informed as regards the status of the report” and a vague description of the kinds of action that may be taken to implement the UNFCCC Code of Conduct.<sup>144</sup> At a briefing for civil society on 7 October, UNFCCC officials stated that all complaints would be investigated and appropriate action taken, but gave no information as to what process any investigations would follow or whether there would be any reporting after the COP regarding complaints.<sup>145</sup>

In order to reassure people who wish to report harassment, or other security-related incidents in the “Blue Zone”, that their complaints will be taken seriously, the UNFCCC should provide information on the process for investigation of complaints, the way in which the UNFCCC will guarantee that the investigation is conducted impartially and independently, and with clear timelines for each stage. If timelines cannot be adhered to, complainants should be given information as to the reason for the delays and expected new dates for each stage. The UNFCCC should also publish disaggregated data on the findings of any investigations, with due regard to the confidentiality of those affected, on at least an annual basis. As a minimum, this should include the number of complaints made, and the percentage upheld or partially upheld. It must also uphold its commitment to take appropriate action in relation to threats, intimidation or any other form of retaliation against a participant who has made a complaint or provided information in support of a complaint.<sup>146</sup>

## GUARANTEEING PROTECTION OF RIGHTS AT UPCOMING MEETINGS

Measures implemented by the UNFCCC at the Bonn Climate Conference in 2024 reduced effective participation. Amnesty International is aware that many accredited observers received fewer badges for the Bonn Climate Conference than in previous years, which the UNFCCC stated was due to rising numbers of requests and health and safety capacity restrictions in the venue.<sup>147</sup> The UNFCCC also reported that it had budget limitations<sup>148</sup> that caused it to cut back on activities, including Regional Climate Weeks<sup>149</sup> (that will affect participation and input from grass roots organizations in each region) and the provision of a platform for virtual attendance at the Bonn Climate Conference<sup>150</sup> (which limited access to proceedings for individuals unable to attend in person) and fewer side events,<sup>151</sup> which were not routinely be live streamed (limiting the range of views and information that can be presented and access for those unable to attend in person).

Following negotiations at the Bonn Climate Conference, where concerns were expressed about the imbalance of delegates from higher income countries compared to lower income countries, the UNFCCC adjusted its algorithm for the allocation of badge quota for observers to COP29 to grant more badges to organizations from lower income countries. However, Amnesty International has heard reports from grass roots and organizations expressing concern about the high cost of accommodation in Baku, which they said was pricing them out of attendance or limiting the number of people they could send. Amnesty International considers it is essential to ensure that participants from all countries, particularly those most affected by climate harms, are adequately represented at COPs, but also urges states and the UNFCCC to consider other ways in which they can be supported to attend in practice, including through travel and accommodation support.

There are also fears that participants could face undue restrictions on their rights at COP29 to be held in Azerbaijan, where the fossil fuel industry also helps finance a government that has severely repressed human rights and engages in lavish public relations to try and gloss over its appalling record of repression, arbitrary detention of critics, excessive use of force, torture of detainees and the crushing of civil society. Women and LGBTQI persons continue to face discrimination and violence.

Due to the restrictive environment for civil society and repression against dissenting voices, there is no space for the effective engagement of civil society in environmental debate or decision-making. Local civil society organizations have been effectively muzzled by the arrests, travel bans and threats of arbitrary prosecution, while the recent fatal stabbing of

<sup>144</sup> UNFCCC, *Code of Conduct for UNFCCC Events*, previously cited

<sup>145</sup> UNFCCC, Recording of “COP 29 Briefing Sessions for Observers: Logistics, Security, and Code of Conduct I”, 7 October 2024, <https://www.youtube.com/watch?v=6xljwwT7JZY>

<sup>146</sup> UNFCCC, *Code of Conduct for UNFCCC Events*, previously cited

<sup>147</sup> UNFCCC, *Recording of General Briefing on SB60 for Admitted IGOs and NGOs*, <https://www.youtube.com/watch?v=j9I5vQEAO04>, from 45:27 to 48:39

<sup>148</sup> Climate Home News, “UN’s climate work at risk, after EU limits budget increase, 20 June 2023”, <https://www.climatechangenews.com/2023/06/20/unfccc-budget-climate-change-eu-bonn-funding/>.

<sup>149</sup> UNFCCC, *Regional Climate Weeks web page*, <https://unfccc.int/climate-action/regional-climate-weeks>, accessed on 4 May 2024

<sup>150</sup> UNFCCC, *Information for SB 60 participants (A-Z): Registration*, <https://unfccc.int/sb60/ifa#Registration>

<sup>151</sup> UNFCCC, *Recording of General Briefing on SB60 for Admitted IGOs and NGOs*, previously cited, from 38:12 – 39:07

government critic Vidadi Isgandarli in France, where he had been living in exile, has sent a chilling message to the Azerbaijani activists abroad.<sup>152</sup>

Restrictions on freedom of assembly association and expression in Azerbaijan limit the opportunities for meaningful participation of NGOs, environmental activists, and civil society. Family members of those targeted and arrested are also facing reprisals by authorities.

Restrictive laws and regulations for registration and funding of media organizations have led to most independent critical outlets closing down. Dozens of journalists are detained,<sup>153</sup> including six from investigative news outlet AbzasMedia which covered corruption and a crackdown on an environmental protest. They also include prominent human rights defender Anar Mammadli, who is Head of the Election Monitoring and Democracy Studies Centre and co-founder of the Climate of Justice Initiative<sup>154</sup> in Azerbaijan who was detained on 24 April 2024<sup>155</sup> and remains held in October 2024, a sign of an intensifying crackdown by the Azerbaijani authorities ahead of COP29 on the rights to freedom of expression, association and peaceful assembly, There are also fears that participants in COP29 could be subjected to unlawful electronic surveillance, including through the use of spyware.<sup>156</sup>

## MAKE HOST COUNTRY AGREEMENTS PUBLICLY AVAILABLE

The SBI Agreed Conclusions of June 2023 and June 2024 noted that “host country agreements should reflect the purposes and principles of the Charter of the United Nations as well as respective obligations under international human rights law, and enable inclusive and effective participation of Parties and observer organizations, with a view to ensuring that UNFCCC sessions and mandated events are convened at a place where human rights and fundamental freedoms are promoted and protected, and where all participants are effectively protected against any violations or abuses, including harassment and sexual harassment.”<sup>157</sup>

It is imperative that there be full transparency around Host Country Agreements (HCAs), in order for participants to be able to have confidence that their rights will be protected when attending UNFCCC meetings, and that there is an adequate complaints process which enables them to be able to seek redress for harms suffered in the “Blue Zone”, including guarantees of non-repetition. As such, HCAs should routinely be made public, in line with the 2023 and 2024 Agreed Conclusions that noted that for transparency the host country agreement for sessions of COP should be made publicly available.<sup>158</sup> Nonetheless, in practice, HCAs are rarely made public, unless the host country chooses to do so.

At the Bonn Climate Conference in June 2023, UNFCCC officials told civil society representatives in a meeting that HCAs could be obtained on request from the UN Treaty System. After months of effort, Amnesty International finally obtained the HCA for COP28 in June 2024, which it has published on its website in the interests of greater transparency for all, along with a short analysis of human rights protections and shortcomings.<sup>159</sup> The HCA for COP29, which was signed in August 2024 is not yet publicly available, although Human Rights Watch has obtained a leaked copy and has criticized the lack of concrete human rights protections in it.<sup>160</sup>

The experiences outlined above indicate that HCAs are not in fact publicly available in any meaningful way as copies sent late or leaked to one or two NGOs do not fulfil the right to access information. There is no transparent process to understand how to request copies of HCAs, and the Treaty System process is also likely to deter people from proceeding with requests by the requirement for the creation of an account in order to use a contact form It also requires familiarity with one of the official UN languages.

<sup>152</sup> Amnesty International, “France/Azerbaijan: Killing of President Aliyev’s critic exposes failures to protect exiled activists”, 2 October 2024,

<https://www.amnesty.org/en/latest/news/2024/10/france-azerbaijan-killing-of-president-aliyevs-critic-exposes-failures-to-protect-exiled-activists/>

<sup>153</sup> Amnesty International, *Urgent Action: Azerbaijan: Release Arrested Journalists*, 9 May 2024, <https://www.amnesty.org/en/documents/eur55/7946/2024/en/>

<sup>154</sup> Founding statement of COP29 - Climate of Justice Initiative available at: [https://openazerbaijan.org/site/assets/files/2273/cop29\\_-\\_climate\\_of\\_justice\\_initiative.pdf](https://openazerbaijan.org/site/assets/files/2273/cop29_-_climate_of_justice_initiative.pdf)

<sup>155</sup> Amnesty International, “Azerbaijan: Human rights and climate justice advocate arrested ahead of COP29”, 30 April 2024,

<https://www.amnesty.org/en/latest/news/2024/04/azerbaijan-human-rights-and-climate-justice-advocate-arrested-ahead-of-cop29/>

<sup>156</sup> Amnesty International, “Armenia/Azerbaijan: Pegasus spyware targeted Armenian public figures amid conflict”, 25 May 2023,

<https://www.amnesty.org/en/latest/news/2023/05/armenia-azerbaijan-pegasus-spyware-targeted-armenian-public-figures-amid-conflict/>

<sup>157</sup> UNFCCC, *Report of the Subsidiary Body for Implementation on its fifty-eighth session, held in Bonn from 5 to 15 June 2023*, previously cited, para 129 and and

UNFCCC, *Report of the Subsidiary Body for Implementation on its sixtieth session, held in Bonn from 3 to 13 June 2024*, UN Doc. FCCC/SBI/2024/13, para 188

<sup>158</sup> UNFCCC, *Report of the Subsidiary Body for Implementation on its fifty-eighth session, held in Bonn from 5 to 15 June 2023*, previously cited, para 130 and

UNFCCC, *Report of the Subsidiary Body for Implementation on its sixtieth session, held in Bonn from 3 to 13 June 2024*, UN Doc. FCCC/SBI/2024/13, para 187

<sup>159</sup> Amnesty International, *UNFCCC COP28 Host Country Agreement: A failure to protect human rights*, 4 July 2024,

<https://www.amnesty.org/en/documents/ior40/8216/2024/en/>

<sup>160</sup> Human Rights Watch, *COP29 Host Country Agreement Lacks Rights Protections: Azerbaijan Should Guarantee Rights of Civil Society Participants At Climate Conference*, 10 October 2024, <https://www.hrw.org/news/2024/10/10/cop29-host-country-agreement-lacks-rights-protections>

Access to information is part of the right to freedom of expression, and all parts of the UN should uphold that right through clear, easily accessible and transparent processes that are in line with OHCHR’s 2022 report on good practices for establishing national normative frameworks that foster access to information held by public entities.<sup>161</sup> Host countries and the UNFCCC Secretariat should routinely make the HCAs publicly and easily available and swiftly after signing and disseminate information about how to access them.

## RECOMMENDATIONS

### **Ahead of COP29 in November 2024, Amnesty International calls the United Arab Emirates, as outgoing President of COP28, to:**

- Drop all charges and annul all convictions and sentences in the latest mass trial of Emiratis, mostly already imprisoned for over a decade and many of whom are prisoners of conscience, that began during COP28.
- Immediately and unconditionally release all those arbitrarily detained solely for the peaceful exercise of their human rights or for reasons of discrimination.
- Amend or repeal unduly restrictive laws, including the many articles of the Code of Crimes and Punishments criminalizing and curtailing the rights to freedom of expression, association, and peaceful assembly; the 1980 Law on Printing and Publishing; Article 24 of the 2012 Law on Information Technology Crimes; the 2021 Law on Combatting Rumours and Cybercrimes; and laws criminalizing gender identity, gender expression, and sexual orientation, to ensure that the rights to freedom of expression, association and peaceful assembly are guaranteed for all, whether Emirati or from other countries.
- Promptly ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as recommended by many states in the UAE’s last UPR.

### **Ahead of COP29 in November 2024, Amnesty International calls on Azerbaijan to:**

- End all arbitrary and politically motivated prosecutions and cease threats, harassment and attacks against all government critics.
- Restore a functioning safe and enabling environment for civil society, including NGOs, human rights defenders, journalists and activists, by repealing restrictive laws and policies, refraining from unduly restricting access to information, including about environmental and climate-related matters, and releasing all who are arbitrarily detained.
- Bring the regulations on funding and registration of civil society organizations in line with international standards and allow international human rights monitors unimpeded access to Azerbaijan to carry out their human rights work.
- Ensure thorough, prompt, impartial and independent investigation into all reports of human rights violations against human rights defenders and bring to justice those suspected of criminal responsibility for such crimes in fair trials.
- End all forms of discrimination and cease gendered reprisals against women and LGBTI human rights defenders, and ensure accountability for all reported instances of such reprisals, including instances and threats of sexual violence, public smears, violation of the right to privacy and unlawful surveillance, including against female relatives of human rights defenders, political activists and others.
- Ensure the timely provision of visas to enter Azerbaijan to all participants, particularly those from lower income countries and ensure that this process does not become an impediment for participants in COP29 to exercise their rights.
- Facilitate the organization of parallel events by CSOs and Indigenous Peoples ahead of and during COP29, both

<sup>161</sup> OHCHR, *Report on good practices for establishing national normative frameworks that foster access to information held by public entities*, UN Doc. A/HRC/49/38, 10 January 2022, [https://ap.ohchr.org/Documents/dpage\\_e.aspx?si=A/HRC/49/38](https://ap.ohchr.org/Documents/dpage_e.aspx?si=A/HRC/49/38)

inside and outside the COP29 venue.

- Ensure all persons can freely express themselves and peacefully demonstrate ahead of, during, and after COP29 inside and outside the COP29 venue without discrimination or fear of reprisals.
- Publish the Host Country Agreement for COP29 without further delay.

**Amnesty International further calls on the UNFCCC Secretariat to:**

- Provide additional information on the process of investigation of complaints into harassment of all kinds or other personal security-related incidents at UNFCCC meetings and make public the findings of any investigations into reported instances of surveillance and harassment of EHRDs and climate activists at previous or future UNFCCC meetings on at least an annual basis and with due regard to the confidentiality of those affected.
- Liaise with the UN police to carry out a thorough and comprehensive human rights risk assessment for participants, including in relation to surveillance, arbitrary arrest and detention, the right to freedom of expression, including expression of sexual orientation and gender identity, and the right to peaceful assembly and put in place adequate measures to minimize risks of reprisals and acts of intimidation and ensure a safe environment for all observers, particularly Indigenous Peoples, EHRDs and climate activists, and communicate these to participating observers.
- Ensure clear human rights principles and protections, including for freedom of expression, association and peaceful assembly are included in host country agreements.
- To increase transparency and accountability:
  - Swiftly publish the agreement with host countries after signature, including for COP29, in line with the conclusions of SBI58 and SBI60 and widely disseminate information about its publication.
  - Provide data on the number of requests for badges from observer constituencies and from parties for overflow badges for UNFCCC meetings, disaggregated as far as possible by constituency affiliation, gender, age, disability status, region and country.
- Combat reprisals and acts of intimidation against Indigenous Peoples or environmental HRDs or climate activists for their engagement with the UNFCCC by:
  - Publicly denouncing all cases of reprisals;
  - Identifying a focal point for reprisals, with a mandate to collect information, to share it with the UN Assistant Secretary-General for Human Rights and facilitate redress.
    - The focal point should make their contact details publicly available and inform all participants in UNFCCC meetings of the procedure to contact them.
- Facilitate adequate observer participation in all UNFCCC meetings by:
  - Communicating in a clear and timely way about the meeting and opportunities for observer participation;
  - Supporting observers from lower income countries to ensure balanced participation;
  - Ensuring adequate accessible space is available to enable observers to be in the meeting room;
  - Putting in place full, effective, and meaningful remote participation modalities, including access to negotiations and live streaming of all side events;
  - Seeking additional funding to ensure that mandated activities are carried out and necessary measures to ensure effective observer participation are implemented, while ensuring in the meantime that any cuts to

activities do not unduly restrict effective and meaningful participation by civil society, Indigenous Peoples, including youth and human rights defenders.

**Amnesty International further calls on all parties to the UNFCCC to:**

- Affirm publicly ahead of COP29 the expectation of every government that public participation and civic space be fully protected, without discrimination, from interference in the context of all COPs, including COP29 in Azerbaijan.
- Ensure that all Host Country Agreements are made public, including by mandating the UNFCCC Secretariat to speedily publish all agreements once signed.
- Urge the UAE and Azerbaijan to abide by their international civil and political human rights obligations, in particular by immediately releasing all prisoners of conscience detained solely for exercising their human rights and repealing repressive laws unduly limiting the rights to freedom of expression, association and peaceful assembly, and those that discriminate against women and girls and LGBTQI+ individuals.
- Make support for civil society's participation in global climate decision-making a foreign policy priority, including by increasing political and diplomatic efforts to protect environmental and human rights defenders as well as climate activists.
- Publicly denounce all instances of reprisals and acts of intimidation against participants before, during or after UNFCCC meetings and urge the UNFCCC Secretariat to conduct prompt, impartial and independent investigations into allegations of such acts in the "Blue Zone", in accordance with the Code of Conduct.
- Ensure that UNFCCC meetings and mandated events are convened at a place where human rights and fundamental freedoms are promoted and protected, and where all participants are effectively protected against any violations or abuses, including harassment and sexual harassment, in line with the SBI Agreed Conclusions of June 2023.
- According to capacity, contribute additional funding to the UNFCCC to ensure that measures restricting civil society participation relating to lack of resources are reversed and to facilitate adequate observer participation in all UNFCCC meetings.

**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**