



2021 Geneva Dialogues on Human Rights & Climate Change

12 February - 24 March 2021

Summary Report



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THE GOVERNMENT
OF THE GRAND DUCHY OF LUXEMBOURG
Ministry of the Environment, Climate
and Sustainable Development

INTRODUCTION

The 2021 Human Rights and Climate Change Geneva Dialogues took place between 12 February and 24 March 2021, and consisted of three expert workshops and a high-level public event:

- Expert workshop “*How can UN human rights mechanisms contribute to ending environmental racism?*”, 12 February 2021
- Expert workshop “*UN human rights instruments in the fight for land rights in the context of climate justice*”, 16 February 2021
- Expert workshop “*Promoting adequate redress in the context of climate harms: what role for human rights institutions?*”, 23 March 2021
- High-level session “*Human rights institutions and the implementation of the Paris Agreement*”, 24 March 2021

The objective of the Dialogues was to discuss specific human rights issues in the context of climate change (environmental racism, land tenure, and opportunities for redress for climate harm), and the role of human rights institutions in enhancing and supporting climate ambition and human rights-based climate action.

This document is a summary of the discussions held during the Dialogues, and aims to reflect the content of the statements and discussions. Statements made do not necessarily represent the position of the co-organizers.

The co-organizers of the 2021 Geneva Dialogues would like to express their to the moderators for having skillfully facilitated the sessions, and to the participants for their high-quality, frank and open contributions.

EXPERT WORKSHOP: HOW CAN UN HUMAN RIGHTS MECHANISMS CONTRIBUTE TO ENDING ENVIRONMENTAL RACISM?

In many areas of the world, there is a clear link between racism, colonization, genocide against indigenous peoples, and ongoing environmental degradation. The underlying reason is the oppressive nature of the current economic relationship between and among people and the planet, which emphasizes profit-making over alleviating intergenerational poverty, providing equal and equitable access to health and education, and preserving and protecting the environment. Thus, environmental racism's deep roots lie in biased policy-making and systems of governance.

There is a link between environmental racism and colonialism. However, environmental racism is also undeniably linked with global justice. Through colonialism, the science of race and eugenics against people of colour were widely shared.

People of colour, often indigenous peoples and communities on the frontline, are targeted, victimised and harmed. Significant examples of issues related to global justice include the lack of engagement of UN bodies with environmental justice, lack of funding of developing countries, specifically for environmental defenders (often indigenous people), and the lack of specific international case law on environmental injustice and racism.

The fossil fuel industry has a strong interrelation with environmental racism - as documented in [the 2019 report](#) by the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. For instance, the so-called "petrochemical corridor" in Louisiana, also now often referred to as "Cancer Alley" or "Death Alley" - home to numerous petrochemical factories and oil refineries - was once the State's sugar district, hosting big plantations that operated on the exploitation of Black slaves. Many petrochemical sites were subsequently built on previous slave burial sites, disregarding the cultural rights of these communities. The inequalities continue today, as the toxic substances that arise from those activities pollute air and water streams, affecting the health of nearby (majority Black) communities. The pesticides and other chemicals produced in the region are then often utilized in circumstances that create hazards for populations farther away; again frequently placing ethnic minorities and other disenfranchised communities at higher risks.

Since environmental and social justice are so closely intertwined, it is important to link environmental justice back to a wide range of inequality issues. Nonetheless, it appears that there is still a lack of coordination and synergies across relevant actors. In order to best tackle environmental racism, interconnectedness is key, both among civil society actors working on different social justice and environmental issues, as well as between frontline communities and United Nations bodies and agencies.

Integrating human rights across various governance spaces is a first, crucial step. Within the UNFCCC this has not yet been achieved, including in the framework of carbon markets, as these mechanisms contribute in some cases to delaying the transition away from the most polluting industries whilst creating new social threats to remote communities, where so-called clean development projects are promoted with little consideration for the rights of local communities. In the context of UN-led programmes and projects, implementing a rigorous audit process would be a good tool to prevent human rights violations in the implementation phase, together with openness to acknowledge and address those violations. This approach should also apply to the philanthropy sector more in general.

Human rights mechanisms, such as special procedures, treaty bodies, and the UPR, also have the potential to address the issue of environmental racism, and some have started to conduct relevant work. Yet these institutions' mechanisms have yet to address linkages between racism, discrimination and environmental harms in a systematic manner across their work.

Integrating more diverse voices into governance spaces is another crucial step towards addressing environmental racism, but the question of erasure of cultures in international fora is still very much a reality. In the context of science, many fields and institutions do not take into account the importance of traditional knowledge and methodologies, although the IPCC has acknowledged their importance. In the context of the United Nations and human rights institutions, many issues of accessibility and representation still need to be addressed. Often, it is very challenging for frontline communities to enter these bodies, and the lack of or limited interpretation at international events prevents effective participation.

The absence of people of colour, indigenous peoples and affected communities from international human rights fora and institutions, as well as from international non-governmental organizations, leads to an approach to climate and environmental justice that discards a wide number of perspectives. This issue is exemplified by the lack of participation of indigenous peoples and local communities in measures implemented to mitigate climate change, such as big hydropower infrastructures, which has subsequently led to human rights violations, including the absence of free, prior and informed consent, forced displacement, and infringement on cultural rights. This issue can be prevented by underscoring the importance of ensuring that full respect for the rights of indigenous peoples and local communities are an absolute prerequisite in any conversations related to “nature-based solutions”.

The question of finance is also connected to environmental racism, which is illustrated by the fact that despite the billions of dollars that are allocated to development and climate finance, it appears that very little support is given to indigenous peoples and local communities, including communities of colour, that are already protecting and restoring the environment.

To sum up the approach that should guide international institutions, policy makers and advocates towards tackling environmental racism, one can cite Audre Lord: “There is no thing as a single-issue struggle because we do not live single-issue lives.”

EXPERT WORKSHOP: UN HUMAN RIGHTS INSTRUMENTS IN THE FIGHT FOR LAND RIGHTS IN THE CONTEXT OF CLIMATE JUSTICE

Bearing in mind the connection between climate change, land and indigenous peoples, as well as the unique vulnerabilities climate change creates for indigenous peoples, the discussions focused on the following key broad questions:

- How UN human rights mechanisms can work in conjunction with national and regional mechanisms for the protection of rights and the environment;

- How the UN instruments including the UN Declaration on the Rights of Indigenous People have had an impact and how these instruments can be used more effectively;
- How to achieve greater understanding of the interconnectedness between the issues of rights of indigenous and local communities, land and climate change;
- What are the lived experiences, including intersectional struggles, of indigenous and local communities based on the current acceleration of extraction and issues of land grabs, land tenure and forced removals and the connection with climate change;
- How can UN instruments be used to further protect environmental and land rights defenders as they come under increasing attack;
- What is the role of indigenous knowledge and culture in terms of the current crisis and how this is protected by UN mechanisms?

There are several international legal documents that support the rights of indigenous peoples to land, culture and participation. While countries have adopted these laws on paper, implementation remains a challenge. This is seen in the example of Free Prior and Informed Consent (FPIC), where governments adopt/ratify international laws recognizing indigenous peoples' right to consent/to decide the kind of developments that can be implemented on their lands, but fail in practice to respect community's right to self-determination and to determine the direction of their territories.

Indigenous peoples' territories are connected to their identity and deeply integrated in their strong social structures. 80% of the world's biodiversity coincides with, or is located within, indigenous peoples' territories. Areas that are managed through indigenous knowledge and solutions, including climate solutions, are commonly land based. Although land is central to achieving climate justice, there is a lack of appreciation of the intersection of land, territory and climate impacts and climate justice; yet in reality, these conversations have to go hand in hand with a greater push for the recognition of land rights, since a huge portion of climate change solutions should stem from the land sector.

Women play a key role in indigenous societies. Land is a source of identity for indigenous peoples, but also a factor of production and source of their livelihood. Women use indigenous knowledge systems in economic production. This explains why they bear the brunt of impacts of climate change and land dispossession. Currently, around the world, food security and sovereignty are at the centre of conversations. There is a need to put women at the centre of these discussions, especially those on food sovereignty, because land is key to achieving this.

Statistics show an increase in violations of the right to freedom of expression and other human rights of environmental defenders, many of whom are indigenous people. Unfortunately, many of them are red tagged or labelled as terrorists and their deaths are disguised as military encounters.

Many government agendas are focused on development (extractives, infrastructure, and industry) of indigenous peoples' territories, due to their dismissive view of ancestral land in favour of serving national interests. To achieve this without resistance, there has been a shift in agenda on indigenous peoples' land, from recognition and protection

of indigenous land, to registration and adjudication. This is changing and weakening the social construct of the communities. In addition, the just energy transition development agenda is now couched as renewable energy exploitation to dispossess the communities of their land.

Environmental justice is about equity, inclusion, and recognition in the way that the environment is used and managed. However, indigenous peoples are being expelled from their territories, which are being exploited excessively in the name of development and conservation. Although it has been demonstrated that they are engines of territorial development, indigenous people continue to face discrimination and to be excluded and marginalized politically, economically and socially. It is important to recognize the indigenous system of use, management and conservation of land and territory, and to ensure their full and effective participation in decision-making processes.

EXPERT WORKSHOP: PROMOTING ADEQUATE REDRESS IN THE CONTEXT OF CLIMATE HARMS: WHAT ROLE FOR HUMAN RIGHTS INSTITUTIONS?

When seeking redress for climate harms, there are a number of barriers to, on the one hand, access to justice, and on the other, admissibility of cases before courts. With regard to the first dimension, lack of access to information and lack of technical expertise appear to be the main challenges. This is particularly evident in the context of infrastructure development projects, as authorities and companies often present them as beneficial to local economic development, without disclosing the human rights or climate change impacts that will arise. With regard to admissibility in court of claims related to climate-related harms, the issue of causality is often raised as an impediment for cases to proceed. Attribution of individual harms to climate change requires a lot of data and scientific expertise that is often not available at the level of individual events, particularly in developing countries. The lack of sufficient data and technical expertise - including records of past trends that might be necessary to demonstrate the role of climate change - impairs the ability of claimants to establish the link between climate change and human rights harms. Thus, it appears that scientific and research organizations have an important role to play in finding ways to fill the data gap - in particular when it comes to countries and areas for which climate science remains limited.

Outside of a number of cases led by municipal authorities in the United States, loss and damage (L&D) resulting from climate change remain largely overlooked by lawyers and litigators, despite the fact that these concepts are traditionally at the core of adjudication and could thus provide interesting entry points for compensation and redress. The concept of L&D, as recognized in the context of the UN climate agreements, addresses the limits to adaptation, such as sea level rise, cyclones, droughts, flooding etc., acknowledging that there is some loss and damage that cannot be avoided through adaptation and mitigation action. Indeed, under current

projections, by 2050 climate-related L&D costs are expected to amount to 1-2 trillion dollars annually. Currently, financial mechanisms established in the context of the UN climate agreements do not address loss and damage in any adequate manner. In order to mobilize and provide sufficient financial resources to address this, dedicated instruments should be established, which do not divert from current public climate and development finance but instead seek to allocate funds through the implementation of the polluter pays principle. These funds should be designed to compensate those that are directly impacted by climate change. Currently, compensation has not been discussed in the context of the Warsaw International Mechanism for Loss and Damage (WIM), as paragraph 51 of the COP21 Decision on L&D states that Article 8 of the Paris Agreement does not involve or provide a basis for any liability or compensation. This provision can however not be interpreted as precluding States from fulfilling their existing human rights obligations, such as the duty to cooperate, and obligations arising in the context of extra territorial harms.

The wide range of national, regional, and international human rights institutions and mechanisms offers differentiated opportunities to build on the specificities of each in order to bring governments and judicial institutions to deliver effective redress and remedies in the context of climate change.

National Human Rights Institutions (NHRIs) have an important role to play both in the context of litigation and of seeking to provide non judicial remedies to the communities directly impacted. Some also have the power to join contentious cases and mediation, and can conduct public inquiries. On the policy side, they have the potential to create cultural change building on the authority conferred to them by their constitutional or legislative mandate, by providing inputs on legislation and contributing to articulating States' obligations in the context of climate change. This can have impacts on the issue of compensation, as they can influence governments' decisions to allocate funds for climate justice. Moreover, what NHRIs lack in enforcement power, they can make up for in innovation and transnational collaboration, and can reduce the procedural burden by allowing creative processes to take place without sacrificing the due process of law. Some NHRIs have been able to engage more proactively with the issue. For example, the Philippines Commission for Human Rights' groundbreaking investigation on the accountability of carbon majors, or the Scottish Human Rights Commission's work on climate justice could provide experience and knowledge that other human rights institutions could build upon.

Human Rights Treaty Bodies (HRTBs) have also an important role to play in furthering the understanding and conceptualization of specific issues, for instance transboundary damage. They can help build jurisprudence, and can explain how to interpret the obligations and rights through the State review procedure, as well as through General Comments. This is why it is important for civil society groups to submit parallel reports and other thematic inputs to these Committees. Some Treaty Bodies

can also receive communications, and look into alleged violations of individuals' rights.

Nowadays, there are established pathways for courts and other mechanisms to address corporations' accountability. There are a wide range of relevant institutions, such as international, regional and national courts, as well as quasi-judicial accountability mechanisms, such as the OECD focal points and regulatory human rights bodies. There are many questions regarding corporate accountability related to distance and access, for example often the people most impacted are the least likely to go to court to seek remedy. Furthermore, questions arise in the form of jurisdictional issues, as some human rights institutions are not comfortable tackling corporations responsibility, and transboundary harms, since most of the time the impacts caused by corporate activities are felt in different jurisdictions. There is also the issue of authority and power - while judicial institutions can compel testimony and hold evidentiary hearings, quasi-judicial institutions cannot, and the binding nature of the institution's decision is in question. Finally, there is the issue of what redress can be provided.

Many regional human rights courts struggle with providing compensation for climate and environmental harm. The question is being raised as to what the most appropriate remedies for the communities that seek justice could be, beyond traditional approaches. Regional courts, once they deem a case admissible - despite strict thresholds in some regional systems - can be equipped to effectively address the question of redress, as they are mandated to monitor the effective implementation of measures required to comply with the Court's judgement. In the case of the European Court of Human Rights, the Court will oversee the implementation of their judgement at the national level, and can also influence States' policies by asking for general measures beyond individual compensation, as States have the duty to prevent similar future violations. In the case of the Inter-American Court of Human Rights, advisory opinions play an important role, as often the Court can tackle issues that it could not address through contentious cases, including with regard to indigenous peoples and environmental damage. The Inter-American Commission can also play a critical role when it comes to further articulating the human rights obligations of States.

No single institution will be in a position to address the gaps and challenges discussed during the workshop, but there are opportunities to strengthen synergies and cross-pollination in order to accelerate progress towards the provision of adequate remedies in the context of climate change. Courts have a critical role to play, and other institutions can support this role by contributing to further articulating the obligation of States and responsibility of private actors. Communities would benefit most if a global framework could be established to provide more systematic access to international support for those impacted by climate change. Human rights institutions can also support policy processes related to loss and damage by providing policy advice and articulating how human rights norms must be applied in the context of climate harms.

HIGH-LEVEL SESSION: HUMAN RIGHTS INSTITUTIONS AND THE IMPLEMENTATION OF THE PARIS AGREEMENT

This report provides synthesis of the interventions delivered during the high-level session of the Geneva Dialogues. Please refer to the video recording of the dialogues for the full interventions.



High-Level Panel

Carole Dieschbourg, Minister for the Environment, Climate and Sustainable Development, Grand Duchy of Luxembourg

Why is it important to discuss the role of human rights in climate action in 2021? How can human rights institutions support the climate agenda?

The Covid-19 pandemic has uncovered many vulnerabilities in our economies and societies, and has reminded the world how closely our environment and wellbeing are interlinked. This is why it is crucial to rebuild better and more resiliently, whilst also tackling the climate crisis. In doing so, States must apply a holistic approach, and put gender equality at the core of climate action. Luxembourg offered its candidacy for 2022-2024 to the Human Rights Council, and a rights-based approach to sustainable development and climate action is one of its priorities. Since the adoption of the Paris Agreement, Luxembourg has adopted its first national climate law and a sustainable finance strategy, among other initiatives. Human rights experts, institutions, and civil society have an important role to play, as they help States adapt to emerging human rights challenges, adopt adequate policies, and promote a human rights-based approach. At the 46th session of the Human Rights Council, Luxembourg lent its support to joint statements on human rights and the environment, as well as on human rights and climate change. Through this type of engagement and exchange, it will be possible to make progress at COP26 and beyond, and learn from each other when designing sustainable and impactful solutions to the climate crisis. It is necessary to make tangible progress for climate action, with human rights institutions being an integral part of that process.

Michelle Bachelet Jeria, United Nations High Commissioner for Human Rights - OHCHR.

Why is it important to include human rights in climate action? What are the expectations for COP26 from a human rights perspective?

Climate change is an overarching threat to human rights. The Covid-19 pandemic has given us a new understanding of ways in which human rights protection gaps act as conduits and multipliers of disasters. We now need to apply these lessons to climate change. The Office of the High Commissioner recently joined 14 other UN entities in calling for global recognition of a human right to a safe, clean, healthy, and sustainable environment. This right, recognized by more than 150 States, empowers

individuals and communities to participate in actions to ensure a safe and stable climate. Human rights mechanisms have a critical role in ensuring human rights-based climate action. In 2020, human rights mechanisms made 181 recommendations related to climate or the environment. Recommendations in the context of the Universal Periodic Review (UPR) often mention climate change and are explicitly supported by the countries concerned. Guidance from human rights experts helps States to analyze the consequences of human rights policies on specific population groups, whose concerns are often marginalised or neglected. The work of HRTBs and Special Procedures can also contribute to climate litigation cases. The Human Rights Committee's recent recognition that climate change might trigger non-refoulement obligations builds upon the understanding of the severity of climate impacts, and the need to establish legal pathways for migration with dignity. The most effective environmental actions are those that include and are led by the people most affected. These voices must be prominent and pre-eminent in the run up to COP26. The structure and substance of climate negotiations should embody a participatory human rights-based approach, and we must find a solution for the challenge that unequal vaccine access poses for in person negotiations. We can approach COP26 with a new, stronger understanding of exactly what is at stake. This year provides an unmissable opportunity to tackle numerous climate issues, by putting human rights at the centre of climate action.

Bruce Billimon, Acting Minister in Assistance to the President and Minister of Environment, Republic of the Marshall Islands, Republic of the Marshall Islands.

From a Small Island Developing State perspective, why is it important to integrate human rights in climate action? What are the outcomes that you would like to see from COP26?

The impacts of human rights on climate change have been discussed at the Human Rights Council since 2008, but the link between human rights and climate change is too often absent from climate change-, environment-, and disaster-related discussions. In the Marshall Islands, climate change is causing the displacement of communities, due to droughts and extreme weather events that continue to place constraints on already limited resources. The Marshall Islands was the first country to submit an updated Nationally Determined Contribution under the Paris Agreement. They have recently updated their Adaptation Communication and are continuing to work on their National Adaptation Plan. With the Solomon Islands, they recently introduced a measure to levy a tax on greenhouse gas emissions under the International Maritime Organization (IMO). It is States' collective responsibility to protect and promote human rights everywhere, and the Human Rights Council should uphold human rights when States do not fulfill their obligations. In the context of Article 6 of the Paris Agreement, Parties need to ensure that market and non-market based mechanisms do not undermine environmental integrity and the temperature goal of the Paris Agreement. In the context of Article 8, it will be important to minimise and address loss and damage and disaster displacement. There is a need for coherence across relevant existing frameworks, which is why the Marshall Islands have called for

the establishment of a Special Rapporteur on human rights and climate change, who would monitor and reinforce States' human rights obligations, and work with the UNFCCC and States in promoting the implementation of domestic climate actions.

Archie Young, Lead Climate Negotiator at Cabinet Office, the United Kingdom of Great Britain and Northern Ireland

What must happen in 2021 to see increased climate ambition and what role can the COP26 play to address the current ambition gap? What will be at stake for human rights in Glasgow? How can COP-26 support the Paris Agreement commitment for Parties to respect, promote and take into consideration human rights in climate action?

The United Kingdom has four headline goals for COP26, which are very much aligned with goals of the Paris Agreement: (i) accelerate emissions reductions; (ii) accelerate adaptation action; (iii) increase climate finance, both public and private; and (iv) enhance collaboration, which includes recognizing that we need the input of different types of actors across the spectrum. The pandemic has impacted institutions and governments, but it also presents an opportunity for a green and resilient recovery. Many countries have submitted new Nationally Determined Contributions despite the challenges, and published their adaptation communications. The recent NDC synthesis report shows that more needs to be done, and reminds us of the need for more ambition in mitigation, adaptation and finance. The Climate and Development Ministerial will focus on practical action that can be taken between now and COP26, on access to finance, responding to climate impacts, on the quantity, quality and composition of climate finance. Respecting and promoting human rights is fundamental to effective Paris Agreement implementation. For COP26, it will be important to ensure that human rights are an underpinning cross-cutting element. COP26 also needs sustained and meaningful engagement to ensure that the human rights of often excluded and marginalised groups are amplified throughout the process. Parties need to continue to uphold human rights principles in their actions, and must be clear about ensuring inclusivity, since climate change cannot be tackled effectively without ensuring inclusion. COP26 is an important platform for amplifying traditionally excluded voices, not as only panel-members, but as decision makers, advocates and leaders. States will be able to better safeguard human rights only if everyone's voices are heard.

Pooven Moodley, Executive Director, Natural Justice

Why is a human rights-based approach key in climate action from the perspective of communities directly impacted? What are the key civil society asks for COP26 with regard to human rights and climate change? What more could be done by UN human rights institutions to contribute to the protection of the rights of communities at the frontlines in the context of climate change?

Climate change already threatens the right to life and the right to live with dignity, and the ongoing ecocide is causing a mass violation of human rights. The Covid-19 pandemic is showing that the world is massively unequal, for instance with regard to access to vaccines. In the context of climate action, while there is a big push for reaching net-zero emissions, there are still massive fossil fuel extraction projects in the African continent and around the world. Thus, accountability is essential to ensure effective climate action. With regard to local communities and indigenous peoples, land is a very important issue. Many communities are linked to land, and their vulnerability increases when they are displaced due to mining projects, land grabs, etc. It is evident that one cannot ignore the intersection between climate change and social issues. Looking at the intersection between land tenure and people's ability to adapt, it appears the stronger land tenure is, the better communities can adapt to climate change. Women comprise a large percentage of people in many of these communities, and have additional pressure and burdens. This needs to be addressed on a range of fronts, including Loss and Damage, and adaptation to climate change. A rights-based approach creates an environment where people and communities can participate more effectively on decisions that affect them. This is critical in the context of the COP and other climate-related policy processes where there has to be a nexus between these processes and the situation at the grassroots level. Ahead of COP26, some of the big asks include the issues of compensation, redress mechanisms, Indigenous Peoples and traditional knowledge, ensuring an end to fossil fuels, and ways to ensure effective remedies and making sure communities are able to adapt.

Follow up questions

Tina Stege, Climate Envoy, Republic of the Marshall Islands

How can human rights institutions support and enhance climate ambition and human rights-based climate action?

The Marshall Islands joined the Human Rights Council last year, and have been a strong advocate on climate change and human rights. The recognition of climate impacts on human rights requires action and a stronger human rights-based approach to climate change across multilateral processes where climate discussions take place. It is important that the HRC and specialized agencies focus on the transnational impacts of climate change and the responsibility of transnational corporations and financial institutions. In the context of the IMO, the Marshall Islands have championed a levy on shipping emissions, while they are the third largest shipping registry in the world. Thus, they are ready to be financially impacted by this, for the greater good. Similar measures should be taken in the context of civil aviation. Overall, there must be a coherence between human rights frameworks and COP26 negotiations, particularly on carbon markets and loss and damage. With regard to the creation of a new Special Procedure mandate on human rights and climate change, this would provide an opportunity to show how climate change and human rights intersect. The Marshall Islands are advocating for a rights-based approach to

mitigation and adaptation, but their ability to implement those measures depends on international support.

Archie Young, Lead Climate Negotiator at Cabinet Office, the United Kingdom of Great Britain and Northern Ireland

What opportunity does the Climate and Development meeting offer to promote human rights-based action? Recognizing the unprecedented challenges faced this year, what is the Presidency's vision to ensure that the upcoming COP is the most inclusive ever held, for instance with regard to measures to overcome financial and health barriers to participation?

The COP26 Presidency held consultations with various constituencies, which highlighted key challenges, such as responding to climate impacts, access to finance, and the quantity, quality and composition of climate finance. These were then discussed at senior official roundtables and ministerial roundtables. The way the COP26 Presidency has prepared for the Ministerial event will hopefully allow for better inclusion. The assumption is still that COP26 will be in person in November. In order to get there, we will need to hear from and engage with voices from around the world. We have not had formal negotiations since December 2019, but have had a series of informal exchanges of view, such as the June momentum or the Climate Dialogues. We have got mixed inputs with regard to connectivity, time zone management and coordination. While for some it is harder to engage remotely, others have been able to participate more as a result of virtual events. We are learning lessons to apply to the COP. It is important that strong commitments are made, but also that all parts of society help to enable a better translation of that into practical action.

Pooven Moodley, Executive Director, Natural Justice

What opportunities do you see to integrate COVID-19 recovery in the international climate conversation?

There are several opportunities. Many economies are being decimated because of Covid-19, and more and more governments are understanding the need to shift from fossil fuels to clean energy as part of rebuilding their economies and energy transition. The challenge is looking at alternative models, and now is the time to ensure that some of those transitions are happening. With regard to environmental and land defenders, the acceleration of projects in Asia, Africa and other continents is putting defenders under attack. It is important to increase the pressure on governments to ensure a proper implementation of protection mechanisms, holding them accountable under international human rights law.

Expert Panel

Astrid Puentes, Co-Executive Director, AIDA

Report back from the workshop on environmental racism: what are the key challenges and opportunities?

With regard to challenges in the context of environmental racism, seven points are worth highlighting: (i) While environmental racism is getting more visibility, the question now is how to ensure solutions are implemented. Racism is often the elephant in the room at the UN and human rights institutions, and is a consequence of a colonial system; (ii) reductionism is also a problem, as it is not possible to tackle the very complex issue of environmental racism through simple fixes; (iii) false solutions to climate change are an issue, as often they are implemented without accountability; (iv) representation and inclusion of diverse voices at different UN levels, in regional and national processes is an ongoing challenge; (v) human rights and environmental defenders are still at high risk; (vi) currently, adequate funding is still lacking; and (vii) there is the need to decolonize all systems and institutions in a systemic way, in order to ensure actual inclusion.

Lucy Mulenkei, Executive Director, Indigenous Information Network

Report back from the workshop on land tenure and indigenous peoples: what are the key challenges and opportunities?

The land struggles of the Ogiek community are exemplary, as there are many cases in Africa of large scale projects displacing Indigenous Peoples. Even if good laws exist, land tenure issues still exist if the laws are not implemented. Another issue is free, prior informed consent (FPIC) in the context of large projects, as often Indigenous Peoples are not consulted. Climate change is further endangering the fragile environments in which these communities live. It is important to have human rights institutions look at those issues and ensure that Parties to the Paris Agreement respect FPIC and the rights of Indigenous Peoples. Getting green energy that does not impact the environment is another important issue.

Joie Chowdhury, Program Coordinator for Networkwide Projects, ESCRnet

Report back from the workshop on opportunities for redress: what are the key challenges and opportunities?

A wide range of human rights institutions, such as courts, UN Treaty Bodies, and National Human Rights Institutions (NHRIs) have engaged in innovative ways on the links between human rights and climate change. In the context of litigation to secure adequate redress for climate harms, several challenges exist, including establishing causation, lack of attribution science, lack of standing, implementation challenges etc. Another important question to be asked is around who to hold accountable through litigation, as this would also inform the choice of forum. With regard to remedies, the question is how to craft remedies that result in actual justice for

communities, and how to take the lead from communities. In the context of international human rights bodies, parallel reports to HRTBs can be a valuable tool to get authoritative statements. Concerning NHRIs, while they lack enforcement power, their strength is innovation and transnational collaboration. Loss and Damage in the context of the UNFCCC is another important area when discussing redress, as it encompasses past, present and future harms caused by climate change. As the Paris Agreement does not provide a basis for liability or compensation, it is important to think of ways to overcome these constraints. Human rights institutions have an important role to play in this context. In order to promote redress that resonates widely and goes beyond normative development, it is essential to further raise awareness and build capacity of rights holders and decision makers at all levels. As a final point, it will be important to continue to think creatively about how to secure adequate redress for climate harms in more systemic ways.

David Boyd, UN Special Rapporteur on human rights and the environment

How to ensure that Special Procedures are accessible for frontline communities and can best address their concerns? How can UN mandate holders contribute effectively to better climate action in order to prevent harms related to climate (in)action?

One of the Special Rapporteur's first country visits was to Fiji, as he wanted to see the devastating impacts of climate change. There, communities' lives have been turned upside down because of climate change. He also hosted regional forums with young people and children to amplify their voices to create more action. With regard to frontline communities, one of the challenges that Special Procedures face is that they can only do two country visits per year, and thus have to do outreach through alternative means. Many mandate holders have addressed climate change in their work, such as the former Special Rapporteur on human rights and the environment John Knox, the Special Rapporteur on culture and human rights, and the Special Rapporteur on extreme poverty, etc. Ambition can be achieved by combining human rights law with international environmental law, as the Urgenda decision has shown.

Vasilka Sancin, Member, Human Rights Committee

How can Human Rights Treaty Bodies best address issues that are getting increasingly urgent, such as environmental racism, access to redress etc., which are also relevant to rights protected by the core International Human Rights Instruments? Are there opportunities to strengthen synergies between the work of the HRTBs and that of other governance actors and institutions?

With regard to the climate-human rights nexus, Human Right Treaty Bodies (HRTBs) should switch their approach from a more reactionary to a more preventive one, so that rights are respected. Individual complaints can provide significant guidance on needed action by State parties. However, the Committees' significant backlog and consequent delays result in decisions being taken years late. Thus, while Committees' jurisprudence provides an important contribution, this system has limited preventive

action. This is why it would be important for HRTBs to include climate change systematically in their dialogues with State parties through periodic monitoring. In the context of the Human Rights Committee, that would be done in connection with the right to life as well as other relevant issues or rights, such as corruption, freedom of expression, rights of minority groups, indigenous peoples, etc. Inclusivity and access to information is also key. In the spirit of creating necessary preventative tools, it would be important to develop General Comments and Recommendations on issues at the intersection between human rights and climate change, in cooperation with various Treaty Bodies. The UN is best placed to disseminate the work of HRTBs and ensure that their considerations are integrated into State parties' action. Information sharing and coordination are key to strengthening synergies, since current discussions on human rights and climate change are too compartmentalized between technical experts and treaty bodies experts.

Didier Georges, Counselor, Haiti's Permanent Mission in Geneva

How can States best make use of the UPR process to promote addressing the human rights effects of climate change? What are barriers to implementation of relevant UPR recommendations and what are good practices for facilitating their implementation? How can States facilitate involvement of environmental CSOs and affected communities in UPR processes?

States should make more use of the Universal Periodic Review (UPR). The countries that are making and receiving recommendations on climate change are members of the Climate Vulnerable Forum and Small Islands Developing States (SIDS), while developed States are almost absent. Thus, it is important that States start making more recommendations to big emitting countries. With regard to barriers to implementation, as the majority of countries that are receiving recommendations on climate change consist of SIDS, the implementation is difficult to quantify. States also need to include civil society organizations in the process, and engage in information sharing and discussions ahead of every UPR.

Shanchita Haque, Deputy Permanent Representative, Bangladesh's Permanent Mission in Geneva

How can the Human Rights Council encourage UN human rights mechanisms to take up questions of climate change and human rights, and how can it incorporate and amplify these efforts? What are effective measures for ensuring that actions taken and commitments made at the Council in Geneva are reflected in domestic policy and practice and in other international spaces like the COP?

The HRC first addressed the interlinkages between Human Rights and Climate Change through the adoption of Resolution 7/23 in 2008. Since then, Bangladesh, Vietnam and Philippines have been tabling a climate change resolution every year at the Council. Much progress has been made, but much still needs to be achieved. There are various ways in which the Council could contribute to this. Other than human rights and climate change resolutions, climate change could be included, where relevant, in

other resolutions. In the context of the UPR, there should be a dedicated chapter to climate change, and States should make more recommendations on climate action. The HRC Advisory Committee could also be tasked with looking into the linkages between SDG 13 and other relevant SDGs from a human rights-perspective. The OHCHR can play a critical role in building the capacity of countries to develop and implement NDCs under the Paris Agreement, with a focus on human rights. The OHCHR could also consider preparing a report on how transnational corporations and private actors consider addressing the impacts of climate change and related human rights impacts in their business operations. NHRIs should launch and maintain an ongoing dialogue with national governments. National SDG coordinators could also help link human rights and climate change in national policies.

Follow up questions

What are 1-2 key developments you would like to see in the context of climate governance and human rights spaces (national, regional or international), to better integrate the climate and human rights discourse?

Astrid Puentes, Co-Executive Director, AIDA

We should make sure that the next COP and related meetings are more inclusive and that more diverse voices are not only invited, but also heard in decision-making processes. This also entails better coordination among the UNFCCC, Special Procedures and HRTBs.

Lucy Mullenkei, Executive Director, Indigenous Information Network

We should remind Parties to the UNFCCC that the Universal Declaration of Human Rights recognizes that fundamental rights and freedoms are to be enjoyed by everyone, no matter who they are and where they are. It will be important to include Indigenous Peoples, women and youth in climate action and decisions under the COP26, which will need to be participatory.

Joie Chowdhury, Program Coordinator for Networkwide Projects, ESCRnet

A key development would be better integration of the climate-human rights discourse in the context of Loss and Damage (L&D). The human rights implications of L&D are staggering, and there are huge needs for climate finance for frontline communities, which have not been met yet.

David Boyd, UN Special Rapporteur on human rights and the environment

Thirty years ago, Vanuatu proposed a L&D mechanism, and the Maldives suggested an air passenger travel levy, to raise billions of dollars that could be transferred to vulnerable states and communities. None of that has happened yet, even though this would have generated financial resources for vulnerable States. The United Nations also need to recognize the right to a safe, clean, healthy and sustainable environment.

Vasilka Sancin, Member, Human Rights Committee

In the context of HRTBs, it is very important to establish regular two-way communication among all UN actors working on climate change and human rights. It is also very important to connect the dots between Committees' recommendations and effective implementation on the ground. If the Secretariat and the Treaty Bodies join forces, it will be possible to make a much stronger push for action.

Didier Georges, Counselor, Haiti's Permanent Mission in Geneva

It is important that more States, including big emitters, make more recommendations on climate change and human rights. It would also be important to establish an ad hoc mechanism on human rights and climate change under the Human Rights Council.

Shanchita Haque, Deputy Permanent Representative, Bangladesh's Permanent Mission in Geneva

The creation of a Special Rapporteur on climate change and human rights will be essential to enhance awareness of the climate-human rights nexus and the question of the transnational impacts of climate change. Lack of funds should not be used as an excuse not to establish this mandate. With regard to Loss and Damage, COP26 should make significant progress to support countries that have hardly contributed to climate change but are now suffering its impacts.

Concluding Remarks

Dr Ruth Kattumuri, Senior Director of Economic, Youth and Sustainable Development, the Commonwealth Secretariat

All points made on Indigenous Peoples and inclusion are relevant and important. While we are all preoccupied with health and economy, we should not forget and lose progress on climate change. The right to sustainable development for all life, right to clean air, and to equitable access to climate finance is also key. The Commonwealth Secretariat is preparing the updated Commonwealth Universal Vulnerability Index, which shows States' vulnerability to climate change; the Climate Change Finance Access Hub to support vulnerable countries in accessing climate funds; and is involved in other initiatives, such as the "Living Lands" and the "Blue Charter".

Marc Bichler, Climate Change and Human Rights Ambassador, Grand Duchy of Luxembourg

The Human Rights and Climate Change Geneva Dialogues have become a privileged space in which to discuss two of our most urgent global challenges and to identify avenues to explore for further increased action. As has been stated by the UN Secretary General Antonio Guterres, 2021 is a crucial year in the fight against climate

change. This means that it is quite naturally also crucial for the fight for human rights. Climate action and the promotion of human rights, to be efficient, effective and mutually reinforcing, need to be integrated. Although human rights are mentioned in the Agenda 2030 and the Paris Agreement, this integration has not been completed, and States will need to enhance policy coherence. To do so, important financial means will be needed. Private sector investors have understood that doing well while doing good is possible. In fact, responsible investment has become the fastest growing segment in the investment field, not least because of the financial, social, and environmental benefit that it can generate. Civil society organizations are playing a crucial role in awareness-raising on these issues. While most of the human rights mechanisms have integrated climate change aspects into their work, it is worth exploring the possibility of creating the position of a Special Rapporteur on Human Rights and Climate Change, which might be seized in one of the upcoming sessions of the Human Rights Council. Other wishes for 2021 include having an inspiring Youth Summit, an effective pre-COP in Milan, and a successful COP26 in Glasgow, with fully operational tools for the Paris Agreement, renewed and increased Nationally Determined Contributions, as well as a steady flow of climate finance and sustainable finance. Stepped-up climate action will entail better protection of human rights.