



**QUNO**

Quaker United Nations Office

# PEOPLE'S CLIMATE EMPOWERMENT SERIES

This series is written to empower people to take action. It offers a set of tools to explain how international law can help us support fair, ambitious and inclusive action to help protect people and nature, in efforts to stabilize climate change.



International scientists agree that the “human influence on the climate is clear, and recent man-made emissions of greenhouse gases are the highest in history.”<sup>1</sup> Decisions made in the next 10 years will be crucial for climate action and represent perhaps the last opportunity to keep the world from warming more than 1.5°C. Holding to 1.5°C would prevent the loss of millions of lives and livelihoods, and the extinction of hundreds of thousands of species. This is a moral call to action. Climate change raises profound questions about how we live on the planet. This series has been created to connect people with international efforts that can strengthen local and national climate action. This first part explains core values and concepts of climate justice, followed by seven introductions to different aspects of international climate action, why they matter, and how to get involved.

## What you will find in this series

Part 1

### **Overarching International Environmental Law**

International environmental law includes the law between countries ranging from disaster response to biodiversity management. Part 1 offers an overview of some of the key agreements and sources of international environmental law that can benefit local and national climate action efforts.

Part 2

### **The Paris Agreement and Nationally Determined Contributions**

The Paris Agreement binds almost every country to act on climate change. Countries are required to outline climate action through Nationally Determined Contributions, which must be increasingly ambitious with each update. Part 2 explains what the Paris Agreement is and how to get involved.

Part 3

### **Inspiring Actions to Create New Laws on Climate Change**

There are many international and local initiatives outside of multilateral negotiations that push forward ambition and creativity. Part 3 features a couple of these projects, such as the Earth Charter and international actions taken to extend rights to nature.

Part 4

### **Climate Change and Human Rights Systems**

The different organizations and committees that make up the international human rights system work to promote and protect what individuals and communities need in order to thrive. Part 4 explores how climate change is addressed within the human rights system and how to get involved.

Part 5

### **Implementing Rights Based Approaches**

We share the strategy of using rights-based approaches to shape climate action. Part 5 includes examples from all over the world of what people are already doing to protect people and planet. These examples inspire and help imagine what more is possible.

Part 6

### **Climate Change Litigation**

When national legislation and local regulations fail to prevent damage or sufficiently reduce greenhouse gases, a different strategy is to go to the courts. There is a growing collection of cases holding countries and other actors, such as corporations, to account for environmental degradation, including climate change. Part 6 explores some of the most recent and significant cases.

Part 7

### **Climate Change and People on the Move**

In the final part, the impacts of climate change shape some of the oldest human practices: moving and creating places where we feel safe and at home. Part 7 explores the connections between a changing climate and human mobility.

<sup>1</sup> IPCC. 2018. *A Summary for Policy Makers. In Special Report on the impacts of Global Warming of 1.5°C.*





## INTRODUCTION: CLIMATE JUSTICE

### PUTTING PEOPLE AT THE CENTER

All life on earth is **interconnected**, **interdependent**, and **valuable**. People around the world are already experiencing dangerous impacts of a rapidly changing climate. Those most vulnerable are usually the least responsible for environmental destruction, yet pre-existing inequalities worsen as climate instability and food insecurity rise.<sup>1</sup> The urgent need to transform the root causes of environmental destruction and climate change also presents an opportunity to create a fairer, healthier and more equal society.

### FULFILLING OUR GLOBAL RESPONSIBILITY

Developed countries hold a huge historical carbon debt. This debt now makes them responsible for leading on climate action, for their wealth was built on centuries of fossil fuel burning. Excessive extraction of natural resources, mostly in the global south for the benefit of the global north, has caused immense damage to people and nature. Those who are least responsible for the climate crisis are suffering first and most. Development strategies undertaken by developing countries cannot copy these unsustainable economic systems. Developing countries require **support** and **collaboration** to develop in green ways that protect the planet and eradicate poverty. International climate action responsibilities are important because "each country can be effectively called to account for its share of emissions and the chance of all countries actually making their contribution will be greatest [collectively]: no reduction is negligible."<sup>3</sup>

### WHAT TO DO NOW?

The difficult reality many already experience - and all of us must confront - is that human-driven climate change is already happening. There is still time to act and to protect as much of humankind and the planet as possible, while supporting those already affected. **We hope this series inspires you to help create change.** On the next page are some suggestions to help you decide what to do next.

### CARE FOR NATURE

Fossil fuel industries, aviation, and industrial meat production are examples of human activities driving climate change. Across the world, species are declining at the fastest rate ever in human history.<sup>2</sup> The destruction of nature, loss of biodiversity, warming of oceans, and disappearance of ecosystems are simultaneously both consequences and accelerators of climate change. We are part of the living world and cannot thrive in isolation from it. A transformation addressing the root causes of climate change, including unsustainable political and economic systems, is needed. So too, are nature-based approaches, such as forest regeneration and peatland restoration, which recognize the interdependent relationship between nature and humankind. We cannot rely on resource-intensive and untested technologies such as bioenergy or carbon capture and storage.

### SHARE THE WORD

Help us share this series to inform and inspire others.

- Give hard copies to friends, family, colleagues and elected officials.
- Share the online version via social media, e-mail, and other routes.
- If you are reading this on a USB, you can copy the files onto your device and share both the files and the USB.

### ENGAGE POLITICALLY

Be involved in the local decisions that have global impacts.

- Call, write, and canvas your elected officials. Our related publications *A Government Officials Toolkit*<sup>4</sup> and *How to be a Hero to Our Children* can help.
- See what different political parties and politicians stand for, and vote in every election.
- See how you can get involved in your country's Nationally Determined Contribution.

### INDIVIDUAL CHANGE

We can always start with ourselves.

- Talk with the people around you, especially those who may not understand the human impact of climate change, or are fearful of the uncertainties climate action might bring.
- Adopt more sustainable forms of consumption to have less impact on the environment. This can include changing what you eat, how you heat your home, or how you travel. Enough is plenty.
- Question how your country's political, economic and social systems may drive climate change and related environmental destruction that threaten all our futures. Allow yourself to ask difficult questions and see how the internet and libraries can help you find answers.
- Enacting changes in how you live can be empowering and inspire others to do the same.

### ENGAGE WITH THE INTERNATIONAL WORLD

Inspire and challenge international decision makers:

- I Am A Citizen Portal: <https://unfccc.int/climate-action/climate-neutral-now/i-am-a-citizen>
- UNFCCC Race to Zero Initiative: <https://unfccc.int/climate-action/race-to-zero-campaign>
- At the Human Rights Council: <https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>
- At the different treaty bodies: <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx>
- At UN Special Procedures, including through Special Rapporteurs: <https://spsubmission.ohchr.org/>

### COLLECTIVE CHANGE

Climate action requires strength in numbers.

- Engage with local groups or local chapters of organizations or movements you respect, faith community initiatives and social media campaigns.
- If there is no local group, see if you can start one together with others.
- Find out what your workplace is doing to reduce its own carbon emissions. This could be with regards to work activities or product sold, behavioral aspects such as the commute to work or recycling in the office, or the choice of ethical retirement funds and banking.



<sup>1</sup>UN Environment. 2020. Nature's Dangerous Decline 'Unprecedented' Species Extinction Rates 'Accelerating'.

<sup>2</sup>FAO, IFAD, UNICEF, WFP and WHO. 2019. The State of Food Security and Nutrition in the World 2019. Safeguarding against economic slowdowns and downturns.

<sup>3</sup>The Supreme Court of the Netherlands (SC). 2019. Urgenda Foundation v. The Netherlands, 5.7.7-8.

<sup>4</sup>QUNO. 2020. A Government Official's Toolkit.



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## OVERARCHING INTERNATIONAL ENVIRONMENTAL LAW

International environmental law promotes climate action, yet it can feel distant and complicated. International law is created by and applies to **countries**, although different terms are sometimes used such as States and Parties. There are four different sources creating international law:

- Conventions and Treaties: the legally-binding agreements between countries
- Customary International Law: habits of how countries act that become rules
- Principles of International Law: the values informing international law and action
- Scholarly Work: how experts around the world interpret the law

International law consists of **hard law**, which are legally-binding obligations, and **soft law**, which are other international documents like declarations, compacts, and general comments, that shape and influence obligations countries have. The science supporting international environmental law is collected by the **Intergovernmental Panel on Climate Change**<sup>1</sup> (IPCC). International environmental law is shaped, in particular, by a set of conventions nicknamed the 1992 triplets.

The **United Nations Framework Convention on Climate Change**<sup>2</sup> (UNFCCC) is the first triplet. The UNFCCC recognizes the dangers of human-induced climate change, and that greenhouse gas emissions have to be reduced at a level that prevents potentially catastrophic impacts. The UNFCCC states that "such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened, and to enable economic development to proceed in a sustainable manner."<sup>3</sup> The UNFCCC, which also hosts the **Paris Agreement**, makes decisions during annual **Conferences of Parties** (COPs) to further protect people and planet. This includes setting global climate goals, establishing taskforces to research specific areas and create recommendations, and structuring international climate finance instruments. Civil society organizations engage with the UNFCCC

through thematically organized Constituencies, for example 'Indigenous Peoples Organizations' and 'Women & Gender'.<sup>4</sup>

The **Convention on Biological Diversity**<sup>5</sup> (CBD) is the second triplet. It focuses on the protection and sustainable use of biodiversity, and on how to manage and share genetic information. The almost universal adoption of the CBD makes it an influential document, and gives weight to its articles highlighting public awareness, education, and the rights of women and Indigenous peoples. **The Cartagena Protocol**,<sup>6</sup> a 2003 amendment to the CBD, recognizes the precautionary principle. This principle means that just because there is uncertainty about the timeline or scope of climate change impacts, this cannot be used by a country to avoid taking ambitious and accelerated climate action. Under the CBD, biodiversity protection is always carried out at the national level, where local organizations and movements take on the role of ensuring that countries follow the rules to which they signed up.

The final triplet is the **United Nations Convention to Combat Desertification**<sup>7</sup> (UNCCD). Accelerating desertification, and consequences such as sandstorms and food insecurity, is an impact of climate change. The UNCCD gathers countries to implement sustainable land management and to create long-term cross-border collaboration to protect and expand arable land and the environment.

<sup>1</sup> International Panel on Climate Change.

<sup>2</sup> United Nations Framework Convention on Climate Change. 1992.

<sup>3</sup> Ibid. Article 2.

<sup>4</sup> See UNFCCC Secretariat. 2011. Non-governmental organization constituencies.

<sup>5</sup> Convention on Biodiversity. 1992.

<sup>6</sup> See CBD Secretariat. 2002. Cartagena Protocol on Biosafety to the Convention on Biological Diversity: text and annexes.

<sup>7</sup> See United Nations Convention to Combat Desertification. 1994.

Besides the 1992 triplets, there are many other International Environmental Law treaties, declarations, and documents. Some of the most important are listed below.

WHAT	WHEN	WHY
<b>African Charter on Human and Peoples Rights</b>	1981	The African Charter establishes in Article 24 that people have the right to a healthy environment. It was the first regional treaty to do so.
<b>Montreal Protocol and the Kigali Amendment</b>	1987 and 2016	The widely successful Montreal Protocol phases down the production and consumption of ozone-depleting chemicals, whereas the Kigali Amendment reduces the usage of alternative non-ozone depleting chemicals that are harmful to the environment, including climate change.
<b>Rio Declaration on Environment and Development</b>	1992	Principle 10 recognises that environmental issues are best handled with the participation of all concerned citizens. This includes appropriate access to information and the opportunity to participate in decision making processes. Principle 20 and 22 highlight the vital role of women and Indigenous peoples in environmental management.
<b>Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters</b>	1998	Sets out national obligations on access to information, public participation in decision making and access to justice in environmental matters. Signatory countries also have a duty to provide a review mechanism for the settlement of grievances through either a court of law or independent body.
<b>ASEAN Declaration on Environmental Sustainability</b>	2007	Declares that the Association of South-East Asian Nations will ensure regional cooperation on environmental issues, including climate change, strengthen participation for environmental policy, and strive to prevent further biodiversity loss.
<b>UNFCCC Cancun Agreements</b>	2010	Declare that all countries should, in all climate change related actions, fully respect human rights.
<b>UN Guiding Principles on Business and Human Rights</b>	2011	Article 11 provides that businesses have an obligation to respect human rights of others and address adverse human rights impacts with which they are involved. This involves meaningful consultation with potentially affected groups and other relevant stakeholders, as well as continued feedback and monitoring (article 18 and 20).
<b>Sendai Framework for Disaster Risk Reduction</b>	2015	A framework to coordinate and share knowledge to prevent new and reduce existing disaster risks, to strengthen preparedness and disaster response, and to support building back resilient and sustainable communities.
<b>Paris Agreement</b>	2015	A legally binding convention to commit its signatories to greenhouse gas emissions reductions, adaptation, finance, and capacity building. It encourages countries to respect their human rights and gender equality obligations in the preamble.
<b>Sustainable Development Goals</b>	2015	A set of 17 targets to be achieved by 2030 agreed to by all United Nations members to create a better and more sustainable world for all, including clean water and sanitation (6), affordable and clean energy (7), climate action (13), life below water (14), and life on land (15).
<b>Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters</b>	2018	Also known as the Escazú Agreement. The agreement ensures access to information, participation and access to justice for all citizens in Latin America and the Caribbean. The treaty has a specific provision on environmental human rights defenders and enshrines a rights-based approach toward Indigenous Peoples and vulnerable populations.



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## THE PARIS AGREEMENT AND NATIONALLY DETERMINED CONTRIBUTIONS

The Paris Agreement is the first legally-binding global climate change agreement. It is viewed as fair because developed countries, who have benefited more from industrialization, have the responsibility to lead on the core actions of:

- ▶ **Mitigation:** the reduction of greenhouse gas emissions that cause climate change.
- ▶ **Adaptation:** adapting to climate change impacts, such as what crops we can grow, where to safely live, work and play, and to build resilience.
- ▶ **Loss and Damage:** support to those who face

The Paris Agreement<sup>1</sup> entered into force in November 2016. It follows from the 1992 UN Framework Convention on Climate Change and the 1998 Kyoto Protocol.<sup>2</sup> The former, did not include legally binding targets on reductions of greenhouse gas (GHG) emissions. Under the Kyoto Protocol developed countries<sup>3</sup> have legally-binding targets to reduce their greenhouse emissions, which includes the **Clean Development Mechanism**.<sup>4</sup> Through this mechanism, developed countries fund projects in developing countries which would reduce overall global emissions while not making those reductions in their own countries. This is a form of carbon off-setting.

- ▶ irreversible loss and damage due to current and locked-in climate change.
- ▶ **Finance:** financial support from developed countries to developing countries to help them mitigate and adapt, while still having the chance to eliminate poverty through sustainable economic development.

The Paris Agreement is historic because it commits global efforts to "holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels." A 1.5°C temperature limit, in comparison to even a 2°C temperature limit, could prevent significant species extinction, human suffering and loss of life, as well as the eco-system collapse that would include the irreversible melting of the Greenland Ice Cap and associated sea-level rise.<sup>5</sup>

Under the Paris Agreement, each country defines its climate action in **Nationally Determined Contributions** (NDC). NDCs provide mitigation targets and projects, adaptation goals and programmes, finance provided by developed countries and needed by developing countries, and the required technology and capacity. NDCs are intended to reflect the country's highest possible ambition, recognizing "common but differentiated responsibilities and respective capabilities, in the light of different national circumstances."<sup>6</sup> Each country's successive NDC must be more ambitious than the last one. All NDCs must contribute to long term mitigation and adaptation goals, ensuring that countries collectively fulfill the Paris Agreement's goals. To measure progress, countries engage in a global stock-take taken every 5 years, with the first one taking place in 2023. All NDCs are available in a UNFCCC database.<sup>7</sup>



<sup>1</sup> Paris Agreement. 2015.

<sup>2</sup> Kyoto Protocol to the United Nations Framework Convention on Climate Change. 1998.

<sup>3</sup> Note that this does not include the USA or Canada, as the former did not ratify the Convention and the latter withdrew in 2012.

<sup>4</sup> See UNFCCC Secretariat. Clean Development Mechanism.

<sup>5</sup> IPCC. 2018. A Summary for Policy Makers. In Special Report on the impacts of Global Warming of 1.5°C, p.7.

<sup>6</sup> Paris Agreement. 2015.

<sup>7</sup> See NDC Registry.

It is important to advocate for the right to participate in formulating your country's NDC. Countries like Ecuador<sup>8</sup> and Kenya<sup>9</sup> have explicitly included a citizen's right to participate in their NDC creation. To help your country commit to ambitious, fair, and efficient climate action through their NDC, look out for:

- ▶ **Human rights language in climate action**, including the **rights of Indigenous Peoples** and local communities. Norway's NDC states that "consultations with indigenous people, Sami People, procedures for consultation processes between the central government and the Sámediggi, established in 2005, constitute a crucial framework for ensuring Sami rights under international law to participate in processes that may affect them."<sup>10</sup>
- ▶ Inclusion of **gender equality** and gender-informed processes regarding climate change, as demonstrated by the Marshall Islands, which "commits to a gender-responsive and human rights-based approach in all NDC-related planning, programming and implementation."<sup>11</sup>
- ▶ **Economic activities** which include a **just transition** to guarantee worker and social welfare protection. Ask your government if the NDCs include all sources of emissions, especially fossil fuel extraction, aviation and shipping, and if not, how else can they be covered to maintain ambition? Additionally, nature and natural resources should be protected, especially if they are also **carbon**

- ▶ **sinks** such as tropical rainforests and bogs. The updated NDC for Suriname, for example, is committed to ensuring that its 93% forest cover remains, and understands the importance of safeguarding these forests as part of global ecological systems.<sup>12</sup>
- ▶ **Food security, sustainable production, and diets**, as what we eat and throw away are huge parts of our individual and collective carbon footprints. Bangladesh commits to supporting families transitioning away from polluting kerosene cooking stoves and increasing climate-resilient and biodiverse agriculture without jeopardizing feeding its people.<sup>13</sup>
- ▶ The **military** is a big emitter. Check to see if their GHG emissions are included as these remain invisible in many international negotiations and agreements.<sup>14</sup>
- ▶ NDC methods and calculations that are based on **best available science**, including the findings of the Intergovernmental Panel on Climate Change. The NDC submitted by Latvia on behalf of the European Union applies the "Global Warming Potential on a 100 year timescale", which is in accordance with the IPCC.<sup>15</sup>

These are examples of priorities which, if included in an NDC, can create a more ambitious, effective and fair NDC for global climate action. **The effectiveness of the Paris Agreement depends on the ambition of the highest emitting countries.** The current NDCs reduce the projected warming associated with the status quo from 4.8°C to a still-catastrophic 3°C rise by 2100.<sup>16</sup> Whilst commitments remain insufficient, emissions are rising.<sup>17</sup> NDCs allow citizens to be part of their country's contribution to urgent international action and to hold their governments to account.<sup>18</sup>

<sup>8</sup> See intended NDC Ecuador, p.10.

<sup>9</sup> See intended NDC Kenya, p. 1.

<sup>10</sup> See intended NDC Norway, p. 8.

<sup>11</sup> See intended NDC Marshall Islands, p.2.

<sup>12</sup> See intended NDC Suriname, p.6.

<sup>13</sup> See intended NDC Bangladesh, p.7.

<sup>14</sup> Buxton, N. 2015. The Elephant in Paris – the Military and Greenhouse Gas Emissions. The Transnational Institute.

<sup>15</sup> See intended NDC of the EU and its Member States, p. 3.

<sup>16</sup> Climate Action Tracker. 2019. Global Update.

<sup>17</sup> UNEP. 2019. Emissions Gap Report.

<sup>18</sup> For example, see the NDC Partnership.





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## INSPIRING ACTIONS TO CREATE NEW LAWS ON CLIMATE CHANGE

In 2015, global legal experts created **the Oslo Principles on Global Climate Change Obligations**.<sup>2</sup> These Principles offer a legal interpretation of existing moral and legal duties governments have that show there is already a requirement to take action to avoid the destructive effects of climate change. As this type of scholarship is considered a source of international law, the Principles are concretely used in court cases to break new legal ground. The Oslo Principles are a tool to:

- ▶ **hold countries and businesses accountable.** The enjoyment of rights, such as the right to life, health, and housing, are under threat by climate change. The Oslo Principles highlight the Precautionary Principle (Part I of this series) which explicitly puts the focus on prevention as the best way for countries to fulfill their obligations to their people.<sup>3</sup>
- ▶ **acknowledge that different countries have different responsibilities and capabilities.** Everyone needs to do their part, but countries with a history of emissions and current large carbon footprints are expected to contribute more to climate action than other countries.

The Oslo Principles are a possible interpretation of law that can inform how courts around the world read the treaties governments sign up to, despite them being only suggestions from society. The principles show that making international law stronger does not only happen in negotiations and court rooms.

In 2017, an initiative for a **'Global Pact for the Environment'**<sup>4</sup> was launched at the UN General Assembly by the French government. It brings together UN institutions, member countries and civil society with the aim of creating an international human rights treaty that recognizes the right to a healthy environment and creates accountability. Negotiations are currently still in progress with discussions now focused on preparing a political declaration for 2022. If realised, the Global Pact could provide an umbrella for the current patchwork of international and national environmental laws.

In 2020, global political leaders added a further ambition-raising initiative on the environment with the **'Leader's Pledge for Nature'**, which brought together over 76 countries committed to reversing biodiversity loss by 2030.<sup>5</sup> Unlike the Global Pact, the Pledge explicitly acknowledges the need to protect nature, climate and people all together, as opposed to seeing them as separate parts.

These initiatives are based on the commitment of a group of ambitious countries, yet they are not legally binding nationally or internationally, which raises questions as to both their scope and effectiveness. Nevertheless, they may also prove an opportunity for the development of international environmental law, offering a common vision for future global environmental action.

There are different initiatives aimed at inspiring action and urging new international environmental law, including those led by scientists and activists. One example is the Earth Charter,<sup>1</sup> which began in 1994 and officially launched in 2000. The Charter took years to draft because it consulted thousands of people from around the world, and joined people "together to bring forth a sustainable global society founded on respect for nature, universal human rights, economic justice, and a culture of peace." The Charter proposes a series of interdependent principles to inform climate action that integrates environment and society. These principles focus on respect for all life, ecological integrity (including changing patterns of production and consumption), and the necessity of social and economic justice. It also highlights the importance of non-violence and peace, including the right to participate, the need to demilitarize, and the need to provide education on how to live sustainably.

## NEW WAYS OF IMAGINING ENVIRONMENTAL LAW

The Earth Charter, Oslo Principles and Global Pact prioritize an understanding of the human right to a healthy environment as protecting nature for the sake of people. There are also new and experimental approaches outside the United Nations that grant **rights to nature** itself, including:

- ▶ The **Ho-Chunk Nation** amended its constitution in 2018 to recognize that "ecosystems, natural communities, and species within the Ho-Chunk Nation territory possess inherent, fundamental, and inalienable rights to naturally exist, flourish, regenerate, and evolve".<sup>7</sup> This legal change shows that tribal governments, as well as counties, provinces, towns, and cities, are places where innovative environmental law can be created and pushed upwards.
- ▶ The **Constitution of Ecuador**, which states in Article 71 that "nature, or Pacha Mama<sup>8</sup> [...] has the right to integral respect for its existence and for the maintenance and regeneration of its life cycles, structure, functions and evolutionary processes."<sup>9</sup> It provides an example of how the rights of nature can be protected at the national constitutional level.
- ▶ The **Te Awa Tupua Bill**<sup>10</sup> of Aotearoa/New Zealand is an example of implementing rights to nature. The bill grants the Whanganui River legal personhood. By working with local iwi,<sup>11</sup> the law would ensure that the river's rights are protected through Indigenous community-led guardianship, management, restoration, and investment.
- ▶ The **Universal Declaration on the Rights of Mother Earth**,<sup>12</sup> led by Bolivia and Indigenous peoples in 2010, seeks to shift the understanding of nature as merely a resource for human beings. It proposes in Article 1.7 that "the rights of each being are limited by the rights of other beings and any conflict between their rights must be resolved in a way that maintains the integrity, balance and health of Mother Earth." This means that the wellbeing of the planet is linked with and inseparable from the wellbeing of all people and other living beings.

A common thread in all these proposals are the Indigenous cultural, political, and legal ideas to help protect our planet, which are also recognized and protected under the **United Nations Declaration on the Rights of Indigenous Peoples**.<sup>13</sup> Indigenous peoples are among those most vulnerable to climate change, as well as consistent and courageous leaders in the climate movement.

Certain environmental organizations advocate for the inclusion of ecocide, defined in the Rome Statute as the extensive loss of an ecosystem in a territory by either human or natural causes.<sup>14</sup> The Rome Statute established the International Criminal Court (ICC), which hears cases from or about the countries that ratify the statute (123 as of August 2020), cases referred to it by the United Nations Security Council, and those initiated by the prosecutor's own initiative. The ICC covers genocide, crimes against humanity, war crimes, and crimes of aggression. Inclusion of ecocide would underscore that it is one of "the most serious crimes of concern to the international community as a whole."<sup>15</sup> The recognition of ecocide establishes a duty of care for governments to protect the environment and prevent destruction. Criminal law is about individual responsibility, and so if ecocide becomes a crime under the ICC, it would not be governments on trial, but individuals with power and responsibility, such as heads of states. In order to make ecocide a recognized crime under the ICC, a country has to submit an amendment to the Rome Statute. As soon as the ratifications of that amendment reach two-thirds of the ICC signatories, it becomes binding to those countries.



<sup>1</sup> See Earth Charter.

<sup>2</sup> Oslo Principles on Global Climate Change Obligations. 2015.

<sup>3</sup> Ibid.

<sup>4</sup> See Global Pact for the Environment.

<sup>5</sup> See Leader's Pledge for Nature.

<sup>7</sup> CELDF. 2018. Press Release.

<sup>8</sup> An Indigenous Andean name for the sacred feminine that sustains and regenerates the earth.

<sup>9</sup> Constitution of the Republic of Ecuador. 2008.

<sup>10</sup> Te Awa Tupua Act. 2017.

<sup>11</sup> Māori word for people or nation, can also be understood as similar to clan or tribe.

<sup>12</sup> Universal Declaration of Rights of Mother Earth. 2010.

<sup>13</sup> United Nations Declaration on the Rights of Indigenous People. 2007.

<sup>14</sup> Rome Statute of the International Criminal Court. 1998.

<sup>15</sup> Ibid. Article 5.

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## CLIMATE CHANGE AND HUMAN RIGHTS SYSTEMS

Incorporating human rights into climate policies and actions is known as a **rights-based approach**, which is grounded on the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world.”<sup>1</sup> People are more likely to support climate action when their rights are **promoted, respected and protected**. The preamble of the Paris Agreement

states that countries “should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights.”<sup>2</sup> Rights-based approaches create more fair and effective government policy based on the duties and responsibilities countries are already committed to.

It is important to bring climate change into the human rights system. With its many moving parts, this system helps shape how countries treat people. The human rights system is also however, a space where countries are constantly negotiating and defining human rights. This creates a paradox and is why political engagement is critical. Citizens can engage indirectly by electing representatives who want to protect and expand human rights and climate action, or directly through branches of the human rights system itself. The table below outlines the international human rights system and outlines routes for how individuals may participate.

### WHAT

#### Human Rights Council

Since 2006 the council has met three times a year. Through interactive dialogues and thematic sessions, it aims to promote human rights education, follow up on human rights commitments made by countries, and prevent and respond to human rights violations. You can submit information directly here: <https://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>

#### High Commissioner for Human Rights

Since 1994 the High Commissioner has acted as the international face for human rights. Their office focuses on human rights standard-setting, human rights monitoring, and supporting human rights implementation at the country level.

#### Special Procedures

These fact-finding missions can focus on certain themes, with renewable mandates of three years, or on specific countries, with one-year renewable mandates. They are brought either by Special Rapporteurs, Independent Experts, or Working Groups within the Human Rights Council. You can submit information directly here: <https://spsubmission.ohchr.org/>

#### Treaty Bodies

Each specific human rights treaty<sup>4</sup> has its own treaty body that oversees its implementation. Each of these bodies differ slightly in terms of length of review cycles, mandates, and activities. You can submit information<sup>5</sup> directly here: <https://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/IndividualCommunications.aspx>

#### Universal Periodic Review

Begun in 2008, this process provides systematic peer reviews of all human rights obligations of a country every four and a half years, irrespective of the treaties that country has ratified. Other countries give recommendations to the country being reviewed, which decides to accept or note them, with the option to reject being used in more extreme or politically volatile cases.

### HOW<sup>3</sup>

<sup>4</sup> Overview of of all human rights treaties

<sup>5</sup> Learn more here: [https://www.ciel.org/wp-content/uploads/2020/02/BriefingNote\\_LeveragingHRTBs\\_2.pdf](https://www.ciel.org/wp-content/uploads/2020/02/BriefingNote_LeveragingHRTBs_2.pdf)

<sup>1</sup> See Universal Declaration of Human Rights.

<sup>2</sup> Paris Agreement. 2015.

<sup>3</sup> Definitions largely from Smith, R. K. M. 2018. International Human Rights Law. 8th Edition. OUP. and Moeckli, D., Shah, S., Sivakumaran, S. 2017. International Human Rights Law. 3rd Edition. OUP.

The **Human Rights Council** has two climate-related resolutions that periodically get renewed. These resolutions ensure research is undertaken by experts and presented for audiences that include representatives from countries across the world. The resolutions help define what human rights are and clarify the existing obligations that countries, as duty-bearers, have to their people, as rights-holders. Since 2009, the **Resolution on Human Rights and Climate Change** explicitly connects human rights with climate change. The periodic renewals allow specific issues to be raised, for example in 2016<sup>6</sup> the resolution focused on the **rights of the child** and affirmed the specific climate impacts children face. The resolution urged countries to “improve the enjoyment of rights by children, especially the most disadvantaged, and to promote children as critical agents of change.” These resolutions also are **tools for citizens** and their organizations to hold governments accountable to fulfil their duties and responsibilities regarding both human rights and climate action. They can be used when talking to politicians and other community leaders, and they provide information on why climate action needs to be inclusive, urgent, and rights-based.

Special Rapporteurs allow for specific themes or country situations to be examined and publicized in depth. Special Rapporteurs can make country visits, where they will meet with local organizations, activists, and other people to learn about human rights on the ground. The resulting reports often get picked up by national press and significantly help shape political debates and outcomes. Special Rapporteurs can also listen to individual complaints and respond to them by including them in reports or providing letters of support in court. These reports are important because they also help define and set the standards of human rights.

A recent report by the Special Rapporteur on Human Rights and the Environment explained good practices followed by countries in recognizing **the right to a healthy environment**.<sup>7</sup> The report noted that procedural elements include access to information, public participation, and access to justice and effective remedies. The substantive elements are clean air, access to safe water, healthy food, non-toxic environments, and healthy biodiversity and ecosystems. Whilst this fundamental right is recognized in domestic law by 80% of country Members of the United Nations, we are yet to see a global recognition of this right at the Human Rights Council. However, movement is underway, with an important recent step being the recent **Resolution on the Rights of the Child** which underlines the need for countries to recognize children’s rights to a healthy environment in their national legislation.”<sup>8</sup>

**Treaty Bodies** monitor human rights obligations of countries, respond to inquiries, and issue **General Comments** or **Recommendations**, which define what rights entail and what countries ought to do to protect human rights. These comments, though not legally binding, are used in courts to clarify legally binding treaties, and include climate change impacts on human rights. In a groundbreaking recommendation, the **Committee on the Elimination of Discrimination Against Women** stressed that there are gender-differentiated climate change consequences, and underscored “the steps that need to be taken to achieve gender equality as a factor that will reinforce the resilience of individuals and communities globally in the context of climate change and disasters.”<sup>9</sup> Other treaty bodies that are active on human rights and climate change are the Committee on Economic, Social, and Cultural Rights; **Committee**

**on the Rights of the Child; Committee on the Protection of the Rights of all Migrant Workers and Members of their Families; and Committee on the Rights of Persons with Disabilities.**

During the **Universal Periodic Review**, countries are increasingly giving recommendations on climate change. This is a process supported by local and international organizations who provide information and suggestions to reviewing countries. Examples are Algeria recommending that Ecuador “pursue its policy regarding protection of the **rights of nature**” and the Philippines recommending that the Netherlands “ensures **accountability** for human rights violations and environmental damage resulting from the global or overseas operations of companies registered or headquartered in the Netherlands.”<sup>10</sup> These recommendations ask governments to protect human rights and the planet.

<sup>6</sup> Available online here.

<sup>7</sup> Available online here.

<sup>8</sup> CER. 2020. UN adopts resolution on realizing children’s rights.

<sup>9</sup> Available online here.

<sup>10</sup> See UPR Info. Database of UPR.





People's Climate Empowerment Series

## IMPLEMENTING RIGHTS-BASED APPROACHES

A **rights-based approach** is one that weaves **human rights** into **climate action**, where human rights are the universal standards to uphold the safety and well-being of everyone. Examples are the right to life, the right to education, and the right to safe and adequate housing. When rights-based approaches are integrated in climate action, which can range from international policy to the plans of a local town council, they promote public inclusion, greater policy acceptance and **more successful mitigation and adaptation**. Rights-based approaches involve the full range of rights and protections to which countries are already committed and should therefore be included in policies which affect people. Effective rights-based action is experienced



as fairer and more inclusive by those who are affected by climate policy implementation. Failure to incorporate rights can result in ambitious projects failing if communities reject them, increasing the likelihood of legal challenges due to rights violations and abuses.

Any decision maker or organization that is carrying out projects that affect people has the power to take a rights-based approach. Enabling communities to participate inclusively and equally in the design, implementation, and evaluation of these projects can preempt violations which could otherwise cause delays and frustrate long-term success. The inclusion of people whose lives are affected by climate change policy in these three stages, can help ensure that local knowledge and experiences are fully incorporated. This increases the chances for fair and successful mitigation and environmental action.

Rights-based approaches include the following:

**Human Rights** are central to rights-based approaches. These approaches are about ensuring that the human impacts of both climate change and climate action are understood and acted upon, so that no human rights violations occur and human rights commitments are fulfilled.

**Gender** shapes how people are impacted by and respond to climate change. Women and girls have distinct experiences and opportunities to lead and strengthen climate action.

Climate action includes the transformation of human actions that drive emissions. **A just transition** ensures protection for livelihoods impacted by necessary economic changes to shift to an economy based on renewable energy, equality, and sustainability.

The inclusion of **intergenerational equity** ensures the security and health of future generations, understanding that our current decisions are part of longer timelines of change-making and healing.

**Food security** is essential to supporting a growing population. It engages head-first with the reality that we already produce enough food, but that we do not yet produce it sustainably or distribute it in ways that feed us all.

Climate change impacts **displacement and peacebuilding**, and climate action must be planned in connection with these topics, to ensure climate action is an opportunity for stability and sustainable development rather than scarcity, instability, and conflict.

As climate action and policy affects all members of the community, especially those already vulnerable, **public participation** ensures that all voices are heard.

**Indigenous peoples** protect the most biodiverse lands on Earth. They also possess invaluable knowledge on how to respond to climate change and how to imagine different ways of living on this planet justly and sustainably. Their voices and leadership are vital.

Climate change threatens the earth's **biodiversity and ecosystems**, which we all need for our food, medicine, livelihoods, culture, and well-being. Climate action must address all dimensions of the environment to successfully respond to climate change.

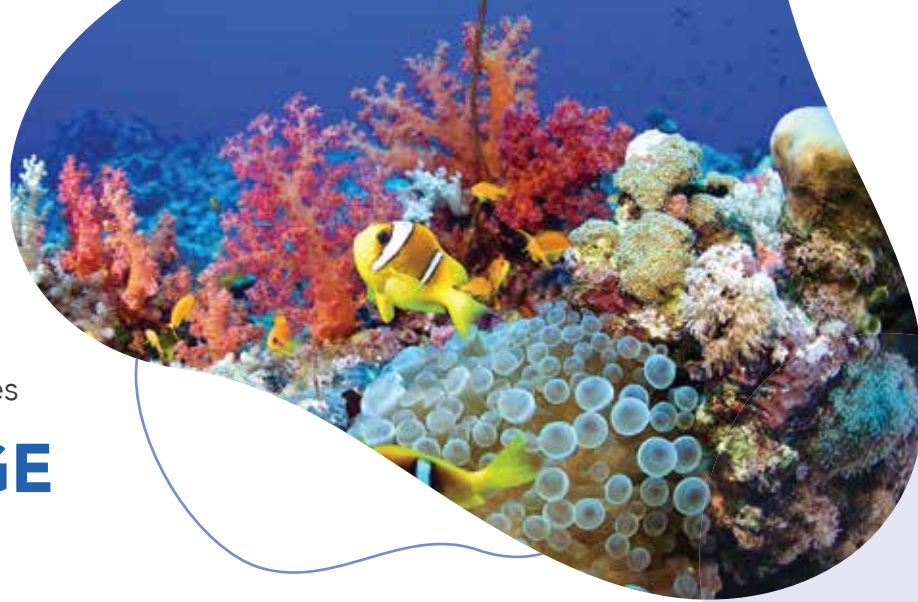
A rights-based approach involves all of society as part of the rapid change needed. It is especially **effective** as it gathers more information, and ensures that people are part of and benefit from climate action. Rights-based approaches can lead to healthier and more resilient communities.

## EXAMPLES OF RIGHTS-BASED APPROACHES

- 1 The Friends' Church in **Burundi** organized workshops to teach farmers and other vegetable growers to make organic insecticides and organic fertilizers to reduce pollution of the environment and erosion of the soil: **Food Security, Biodiversity and Ecosystems**
- 2 In **Samoa**, after the government banned plastic bags, the Samoa Women's Association of Growers started weaving and selling traditional and eco-friendly baskets made from coconut leaves: **Just Transition, Gender**
- 3 In **Russia**, the Indigenous Altai and their organization Ttengri protect the biodiversity, permafrost, and archaeological wealth of the sacred Golden Mountains. Indigenous stewardship has a proven track-record of supporting more robust and biodiverse ecosystems: **Indigenous Peoples, Biodiversity and Ecosystems**
- 4 As part of **Scotland's** Climate Action laws, a Just Transition Commission has been established to ensure the creation of new green jobs while committing the Scottish government to eliminating poverty and reducing emissions without leaving workers in pollutive industries behind: **Just Transition**
- 5 In the **Central African Republic** climate change paired with ongoing conflict is making already limited access to drinking water more difficult. UNICEF partnered with former child soldiers to build new water wells in environmentally sound and sustainable ways: **Displacement and Peacebuilding**
- 6 In **Uruguay** the government has a website enabling citizens to submit complaints about pollution and other types of environmental degradation from anywhere in the country. Each complaint is evaluated by a technical team and, if well-grounded, an investigation is carried out: **Public Participation**
- 7 In **Ecuador**, the Indigenous Sápara, are working with Land is Life and Ashiñwaka—Association of Sápara Women of Ecuador, to protect Indigenous knowledge in order to share it with future generations, so that they can continue to live in and protect one of the most biodiverse places on the planet: **Intergenerational Equity, Indigenous Peoples**
- 8 In the **United States**, the Mycelium Youth Network provides climate resilience education in the Bay Area drawing from ancestral knowledge practices, and tailored to low-income communities to empower and inspire climate action: **Intergenerational Equity, Human Rights**
- 9 In Rajshahi, **Bangladesh**, the local government bought a fleet of battery powered rickshaws for public transit, built sidewalks and the country's first bike lane, planted tens of thousands of trees, cleaned up the polluting brick kiln industry and banned large trucks from the city centre. Dangerous levels of air pollution, unsafe traffic, and greenhouse gas emissions rapidly declined: **Human Rights**
- 10 In Vancouver and Toronto, **Canada**, Greenpeace and local volunteers advocated successfully for the city governments to adopt new resolutions in favour of holding fossil fuel companies accountable for the costs of climate change: **Public Participation, Just Transition**
- 11 A group of Ipili women from **Papua New Guinea** has documented their disproportionate suffering of environmental degradation, economic suffering, and sexual violence due to extraction of minerals from the nearby Porgera mines. The Ipili women organized to raise awareness and collaborate and, as a result, the mining company has instituted a mechanism focused on sexual violence and is under continued scrutiny from the different Ipili women's organizations: **Gender, Human Rights**







People's Climate Empowerment Series

## CLIMATE CHANGE LITIGATION

Ideally, countries should already be committed to ambitious and rights-based climate action to ensure the health and well-being of their citizens, as well as others, affected by dangerous levels of greenhouse gas emissions. If they are not, then **climate change litigation** may offer a possible last resort to ensure countries and companies reduce their greenhouse gas emissions in a fast, ambitious, and fair way to avoid catastrophic climate change. These court cases are typically brought by citizen groups against governments and companies working in the fossil fuel, cement, and chemicals industries. There are challenges associated with climate change litigation, as courts can be inaccessible due to financial barriers, systemic exclusion of marginalized communities, and potential corruption. Climate change litigation efforts can help ensure that governments, corporations or other groups responsible for dangerous levels of GHG emissions can be held legally accountable for their actions. Climate change litigation occurs at **domestic, regional** and **international** levels. The **climate change litigation database**<sup>1</sup> is a tool to track the growing number of cases around the world.

**Domestic** climate change cases occur within a country and rely on national law. **Urgenda vs. the Netherlands**<sup>2</sup> was the first case to successfully hold a country accountable for its lack of climate action. The Supreme Court of the Netherlands ruled that the **duty of care** in the Dutch constitution requires the country to protect its people from future harms, including climate change. Although *Urgenda vs. the Netherlands* applies only within the Dutch legal system, and not all constitutions include a duty of care, it is an example of people using national and international treaties and documents to support more ambitious climate action. The case argued:

using the **European Convention on Human Rights**,<sup>3</sup> that article 2 (the right to life) and article 8 (the right to respect for private and family life) would be endangered by the impacts of climate change and lack of climate action

that because climate change is a global issue, climate action will only be successful if every single country does their part. Although contemporary Dutch emissions might be relatively small, a failure to succeed in reducing emissions would still mean the Netherlands fails to do its part to minimize the harm arising from climate change

that the court does not aim to create undemocratic climate policy and only establishes what limits the country must follow to fulfil its responsibility to its people. The policies on how to achieve that lie in the hands of elected officials. This invites everyone to ask their officials to implement policies that are **ambitious, rights-based**, and advocate for a **just transition**.

The changes this court case brought to the Netherlands, and how it might inspire courts internationally, are noteworthy. When considering climate litigation as a strategy, it is important to be mindful of how sometimes court cases can feel top-down and undemocratic and, in turn, further alienate those already suspicious. Additionally, it can also make countries reluctant to guarantee human rights protections in climate policies out of fear of future court cases being brought.

Many countries have quasi-judicial bodies with different procedures and outcomes that can also investigate climate change cases. For example, in the Philippines a coalition of organizations and victims filed a case to the Commission on Human Rights,<sup>4</sup> a **National Human Rights Institution**. The country has already experienced concrete climate change impacts, such as more frequent and severe storms like Typhoon Haiyan. The case sought to hold 47 corporations with the scientifically confirmed largest emissions globally – a group called the Carbon Majors<sup>5</sup> - liable for the climate change damage to the Philippines. The Commission found that these corporations could be held liable for human rights violations resulting from climate change, and that “relevant criminal intent may exist” to hold these corporations accountable under civil and criminal law, despite all of them being headquartered abroad.<sup>6</sup> The climate science education and political awareness-raising that occurred as part of this process, empowered communities to express their lived experiences and to organize. These additional impacts outside the courtroom were strengthened by the legal team’s efforts to explicitly seek input from the community experts who are the local people already living through climate change. Organizations from around the world also submitted **Amicus Curiae briefs**, which are submitted to courts to offer guidance and support.<sup>7</sup> This, in turn, strengthened a global climate action coalition. Cases like these can help catalyze political will to create systemic change and promote climate action.

Regional legal systems, such as the Inter-American Court on Human Rights (IACHR), have increasingly become sites for climate change litigation. In the 2020 case of **Indigenous Communities of the Lhaka Honhat Association (Our Land) v. Argentina**,<sup>8</sup> the IACHR ruled that Argentina violated rights to community property, cultural identity, food, water, and, for the first time on a regional level, to a **safe and healthy environment**. Environmental degradation is localized, often with easily identifiable culprits, and includes deforestation, water contamination, and biodiversity loss, that also cause and accelerate climate change. Climate change is multi-causal and cuts across borders, which sometimes make it difficult for courts to be able to identify who is guilty. The IACHR however, sided with the Indigenous communities because “the Court understood that illegal logging, as well as other activities carried out in the territory by the [non-Indigenous] population, specifically livestock and wire fencing, affected environmental assets, affecting the traditional way of feeding indigenous communities and in their access to water. This altered the indigenous way of life, damaging their cultural identity.”<sup>9</sup> The right to a safe and healthy environment is new, and not part of the **American Convention on Human Rights**. However, Article 26 of the Convention does include the principle of progressive development.<sup>10</sup> This means that treaties can be read in ways that allow for changes in society and the emergence of new ideas, such as the right to a healthy environment. This case, which ordered Argentina to recognize Indigenous land tenure and to establish a community development fund, shows an alternative route that broadens the possibilities for climate change litigation and can inspire other courts to consider how new rights emerge as climate impacts become more severe.

On the **international** level, cases brought before treaty bodies can help to define the legal obligations countries have, although outcomes themselves are not legally binding. A recent case<sup>11</sup> at the **Human Rights Committee**, the treaty body of the **International Covenant on Civil and Political Rights**<sup>12</sup>, advanced protection of climate change-induced migrants. A citizen from the low-lying atoll nation Kiribati had moved his family to New Zealand, seeking protection from the scarcity of land, food, and water in their home country that could violate their **right to life**. New Zealand deported the i-Kiribati family. The Committee

upheld New Zealand’s action, reasoning that the i-Kiribati government had fulfilled its duty to protect their right to life by having climate action plans and by ensuring that land, food, and water were still accessible, albeit limited. However, the Committee also stated that in the future, climate change could trigger **non-refoulement** obligations. Non-refoulement is a core protection for people on the move, preventing governments from sending a person back to a place where they will suffer harm and human rights violations. Although the current case did not help the i-Kiribati family, it might help those who are displaced by a changing climate in the future.

<sup>1</sup> See the LSE Grantham Research Institute of Climate Change and the Environment online database

<sup>2</sup> See Urgenda’s website.

<sup>3</sup> European Convention on Human Rights.

<sup>4</sup> Commission on Human Rights of the Philippines. 2018. New Approaches to Climate Justice.

<sup>5</sup> Climate Accountability Institute’s online database

<sup>6</sup> Greenpeace Philippines. The Climate Change and Human Rights Petition.

<sup>7</sup> See CIEL. 2018. Joint Summary of the Amicus Curiae Briefs to the Philippines Commission on Human Rights.

<sup>8</sup> IACHR. 2020. Press Release.

<sup>9</sup> Ibid.

<sup>10</sup> American Convention on Human Rights. 1969.

<sup>11</sup> United Nations Human Rights Committee, Communication No. 2728/2016.

<sup>12</sup> International Covenant on Civil and Political Rights. 1966.



People's Climate Empowerment Series

## CLIMATE CHANGE AND PEOPLE ON THE MOVE

The Intergovernmental Panel on Climate Change has shown<sup>1</sup> that climate change impacts will significantly increase the number of **people on the move**. At the forefront of any discussion surrounding the complicated layers of movement, is the need to ensure a rights-based approach that recognizes the **dignity** and **humanity** of people on the move. Urgent mitigation of greenhouse gases can reduce disastrous climate consequences that can spur displacement. However, if countries form climate policies out of fear of people arriving from climate-affected places, it can prevent rights-based and inclusive mitigation and adaptation while enabling a hostile environment that can endanger people on the move. This part of the Series focuses on climate-induced movement, and how people who may need to move due to climate change are

**Migration** is any human movement across an international border. Some people on the move fall into specific categories because of their reasons for crossing borders. These categories may entitle them to international protections that mean they should not be returned to their country of origin. **(Forced) displacement** is movement without choice. **Relocation** is an adaptation strategy to move communities out of climate-vulnerable places. Climate-induced movement can be permanent, but also seasonal or temporary. The lived realities of people means that these categories often overlap. People on the move will be, and in some cases already are, impacted by climate change at the place of departure, transit, and arrival. The following questions invite further conversations:

- ▶ How are people on the move involved in the decision-making that affects their lives?
- ▶ When communities decide to relocate in response to climate change, what elements are important to ensure a successful, sustainable, and peaceful planned relocation?
- ▶ What are the tipping points that trigger decisions to move by local communities – or by individual members of local communities? How are such decisions reached?
- ▶ How are local communities addressing competition over depleted natural resources?
- ▶ What do communities – including those at risk of displacement, those that have experienced displacement and those that have managed to avoid displacement – have to teach communities which are only now starting to confront these issues?
- ▶ How do age, gender, diversity and other power relations shape people's exposure to, and capacity to respond to, climate change and movement?
- ▶ The impacts of climate change are felt in both urban and rural communities. What can be learned from impacts and responses in these differing contexts?

protected by international law beyond the human rights obligations countries already hold.

Human mobility is “a normal human **adaptation strategy**”<sup>2</sup> to cope with the consequences of climate change, and often is in response to three types of climate impacts. Firstly, there are **sudden-onset** disasters, like hurricanes and floods. These occur during a short period of time and cause large groups of people to move quickly and suddenly. This is often referred to as **displacement**. Secondly, **slow-onset disasters**, such as more frequent and longer droughts, are climate impacts which slowly but steadily make it impossible to remain in place, such as more frequent and longer droughts. Lastly, climate change can **exacerbate other reasons why people move, such as violent conflict**. Why people move is multi-causal and interacts with other environmental, political, and economic dimensions. People staying within countries are **Internally Displaced Persons**, whereas **refugees** and **migrants** cross international borders. Moving across and within borders is expensive and inaccessible to many. Extreme poverty can mean that people become **locked** in disaster-prone places. Enabling pathways for these - and all - communities to find shelter and safety, while upholding human rights, is an important aspect of climate action.

There currently is no legally-binding protection for people experiencing climate-induced movement. **Climate refugees** is a popular term describing a group of climate-displaced people in a situation of particular vulnerability, yet it does not have a legal basis. The **1951 Refugee Convention**<sup>3</sup> defines refugee status based on the “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” and being outside one's country of nationality or habitual residence. Climate-induced flight is covered by law when experiences of climate change intersect with these protected categories. An example of this would be if a country were to discriminate in its provision of protection from climate change, such as through denying humanitarian assistance to certain groups. The convention is important as it provides some, albeit limited, protection for people on the move due to climate change. The **Cartagena Declaration on Refugees**<sup>4</sup> is a Latin-American soft law instrument which expands the refugee definition by including “persons who have fled their country because their lives, safety or freedom have been threatened by [...] massive violations of human rights or other circumstances which have seriously disturbed public order”. This has been interpreted to extend to environmental crises, including climate change. Another regional framework expanding the refugee definition is the African Union's **Kampala Convention**.<sup>5</sup>

The **Global Compact on Refugees**<sup>6</sup> is a soft law optional blueprint for governments, international organizations, and others to ensure both host communities and refugees are supported. The compact explicitly states that “while not in themselves causes of refugee movements, climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements,”<sup>7</sup> and places the responsibility to address drivers with source countries and the world as a whole. This acknowledges climate impacts, including environmental degradation and sudden-onset disasters,

but does not create a pathway to add these dimensions to the definition of refugee. This means climate-induced displaced people remain without comprehensive legal protection.

The **Global Compact for Safe, Orderly, and Regular Migration** is a political agreement between countries to respond to the needs of migrants and to improve how countries seek to govern migration.<sup>8</sup> The compact recognizes the possible impacts of climate change on human mobility, including possible pathways for regular migration, such as providing humanitarian visas. Objective 2 invites countries to “develop adaptation and resilience strategies to sudden-onset and slow-onset natural disasters [and] the adverse effects of climate change [...] taking into account the potential implications for migration, while recognizing that adaptation in the country of origin is a priority.”<sup>9</sup> Objective 5 calls for development of, or building on, existing pathways for those migrating (partially) due to climate change, while empowering people to choose to stay if communities are made safe and resilient.

The **Platform on Disaster Displacement** is a country-led initiative by ‘a group of States leading and working together towards better protection for people displaced across borders in the context of disasters and climate change’.<sup>10</sup> Countries share best practices on providing safety to those displaced by disasters, and collaborate on prevention by making communities more resilient. The Platform supports **Loss and Damage**<sup>11</sup> efforts at the UNFCCC though its involvement in the **Taskforce on Displacement**,<sup>12</sup> which provides recommendations to countries on how to avert, minimize, and address displacement related to climate change impacts.

<sup>3</sup> Convention Relating to the Status of Refugees. 1951.

<sup>4</sup> Cartagena Declaration on Refugees. 1984.

<sup>5</sup> Kampala Convention. 2009.

<sup>6</sup> Global Compact on Refugees. 2018.

<sup>7</sup> Ibid. P.2. D.8.

<sup>8</sup> See IOM on Global Compact on Migration.

<sup>9</sup> Global Compact for Safe, Orderly Migration. 2018. P. 10. Objective 2.

<sup>10</sup> See Platform on Disaster Displacement.

<sup>11</sup> Note ‘Loss and Damage’ are the harms caused by anthropogenic climate change, where Loss is permanent (e.g. a sunken island) and Damage can be repaired (e.g. the impacts of a cyclone).

<sup>12</sup> See UNFCCC Secretariat. Task Force on Disaster Displacement.







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