

RECOMMENDATIONS TO STATES ON STEPS TO PROTECT HUMAN RIGHTS

AT THE 25TH CONFERENCE OF THE PARTIES OF THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

2-13 DECEMBER 2019

As parties to the 25th Conference of the Parties of the United National Framework Convention on Climate Change prepare to gather in Madrid between 2-13 December 2019, Amnesty International is calling on them to take the bold cooperative measures that are needed to make meaningful progress in protecting human rights in the face of the climate crisis.²

GLOBAL HEATING – A GLOBAL HUMAN RIGHTS CRISIS

Climate change represents a global human rights crisis, impacting the rights to life, health, housing, water, sanitation, among many others. It disproportionately affects individuals and communities that are marginalized or subject to discrimination and inequality, particularly those facing multiple and intersecting forms of discrimination – including women and girls and Indigenous peoples and with children and young people bearing the brunt of future impacts - but no one is exempt from the risks associated with the climate crisis, as highlighted by the UN Special Rapporteur on Extreme Poverty.¹ Millions of people are already suffering from the catastrophic effects of extreme disasters exacerbated by climate change – estimated at one climate-related disaster per week according to Mami Mizutori, the UN Secretary-General's Special Representative on Disaster Risk Reduction.²

Recent examples range from prolonged drought in sub-Saharan Africa and India to devastating tropical storms sweeping across Southeast Asia, the Caribbean, southern Africa and the Pacific, intense heatwaves and subsequent wildfires in the northern and southern hemispheres, including parts of Europe, North America, and Australia. Harmful practices such as rising deforestation and wildfires in Brazil³ and the recent toxic smog affecting Pakistan⁴ and India from poor fuel quality and uncontrolled emissions, exacerbated by warmer temperatures – a direct result of climate change - are contributing to the climate crisis, as well as harming health and even killing individuals.

URGENT ACTION NEEDED FOR A JUST TRANSITION

All states need to step up action to address the climate crisis and protect human rights in line with their legal obligations. Despite the long-standing demands for climate justice from communities at the frontline of the climate crisis and recent mass mobilizations from children and youth from around the world, responses until now have not been to the scale of the challenge, as recently showed by the disappointing outcomes of the UN Climate Action Summit in September 2019.⁵

As governments transition their economies away from fossil fuels, they must ensure that the move is fair for everybody and contributes to enhancing human rights for all – a truly just transition. That includes the rights of workers and communities who could be negatively impacted by such a transition – governments must not leave anyone behind. They must ensure the creation of alternative decent work and quality jobs and assist displaced workers with the necessary training and support to access such jobs as a priority whilst also ensuring that affected people and their families continue to have an adequate standard of living. The human rights impact on

¹ UN Human Rights Council, *Climate change and poverty, Report of the Special Rapporteur on extreme poverty and human rights*, 2019. UN Doc. A/HRC/41/39, www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_39.docx

² The Guardian, *One climate crisis disaster happening every week, UN warns*, 7 July 2019, www.theguardian.com/environment/2019/jul/07/one-climate-crisis-disaster-happening-every-week-un-warns

³ Amnesty International, *Brazil must investigate and prosecute those responsible for destruction of the Amazon*, 2 September 2019, www.amnesty.org/en/latest/news/2019/09/brazil-must-investigate-and-prosecute-those-responsible-for-destruction-of-the-amazon/

⁴ Amnesty International, *Pakistan: Hazardous air puts lives at risk*, 30 October 2019, www.amnesty.org/en/latest/news/2019/10/pakistan-hazardous-air/

⁵ Amnesty International, *After UN Climate Action Summit, Urgent Action Needed by all States to avoid Human Rights Violations on Massive Scale*, 16 October 2019, Index: IOR 40/1239/2019, www.amnesty.org/en/documents/ior40/1239/2019/en/

communities of mitigation and adaptation projects must also be assessed and procedural rights of affected people should be respected to ensure that all climate measures respect, protect and fulfil human rights in both their outcomes and the way they are implemented.

A DANGEROUS ENVIRONMENT FOR HUMAN RIGHTS DEFENDERS

One of the challenges faced by the struggle for climate justice is the hostility and violence meted out to human rights defenders protecting the land, territory and the environment. The escalation of such attacks is often related to social tension leading to violence within communities, generated by a lack of adequate participation, genuine consultation and information regarding resource exploitation projects driven both by states and private companies. In other cases, the violence is carried out by state security forces or private security agents acting on behalf of private business interests.⁶ Killings such as that of Mexican environmental rights defender Samir Flores Soberanes in February 2019, after receiving death threats for his work on defending the community's territory from a geothermal plant,⁷ are stark indications of the challenges that lie ahead.

Added to this, the increasingly shrinking space for civil society, with growing barriers to the rights to privacy, freedom of expression, assembly and association across much of the world,⁸ presents a difficult and often dangerous environment for human rights defenders who want to protest and organize activities to demand climate action and participate in global climate strikes. For example, in the UK, in October 2019 protesters faced mass arrests and a blanket ban on protests, which eventually brought the London protests to an end.⁹

In order to achieve ambitious and human rights-consistent climate action, it is imperative that human rights defenders are able to defend and promote human rights without fear of punishment, reprisal and intimidation, and all concerned citizens are provided access to information and meaningful participation in environmental decisions.

INADEQUATE CLIMATE TARGETS AND FINANCE COMMITMENTS

The vast majority of States, in particular wealthy industrialized nations¹⁰ who have the capacity and responsibility (due to their current and historical emissions) to move fastest, are currently failing to set sufficiently ambitious climate targets,¹¹ while carbon emissions from fossil fuels continued to grow and reached a new high in 2018.¹² Not only is around 82% of energy in G20 countries sourced from fossil fuels,¹³ but the share of energy from fossil fuels in Canada, India and Indonesia has actually increased between 2012 and 2017¹⁴ with the G20 collectively responsible for some 79% of greenhouse gas emissions.¹⁵ In 2018, G20 energy-related CO₂ emissions grew by 1.8% compared to 2017. These include emissions from fossil fuel combustion: electricity, heating, industry, and transport. Despite a G20 commitment to remove "inefficient" fossil fuel subsidies, such subsidies by G20 countries to coal, oil and gas continue, with Argentina, Indonesia, South Africa, Italy, Turkey, Australia, the UK and Russia providing the highest fossil fuel subsidies per unit of GDP in the G20 in 2017. Worryingly, France and Turkey actually increased their fossil fuel subsidies between 2012 and 2017 and there is evidence that across the G20¹⁶ subsidies for coal-fired power almost tripled between 2013 and 2017.¹⁷

Although the amount of international climate finance to support climate change mitigation and adaptation in developing countries is increasing,¹⁸ this is far from what is needed to ensure that the rise of global average temperatures is kept under 1.5°C above pre-industrial

⁶ Amnesty International, *Deadly but Preventable: Attacks, killings and enforced disappearances of those who defend human rights*, 5 December 2017, Index: ACT 30/7270/2017, www.amnesty.org/en/documents/ior30/0174/2019/en/

⁷ Amnesty International, *Urgent Action: Environmental Rights Defender killed*, 29 February 2019, www.amnesty.org.uk/resources/urgent-action-environmental-rights-defender-killed

⁸ See for example: Amnesty International, *Human rights defenders under threat*, 16 May 2017, Index: ACT 30/6011/2017, <https://www.amnesty.org/en/documents/act30/6011/2017/en/>; Amnesty International, *Laws designed to silence: the global crackdown on civil society organizations*, 21 February 2019, Index: ACT 30/9647/2019, www.amnesty.org/en/documents/act30/9647/2019/en/; Civicus, *State of Civil Society report 2019*, www.civicus.org/index.php/state-of-civil-society-report-2019

⁹ Amnesty International UK, *Extinction Rebellion blanket ban chilling and unlawful*, 15 October 2019, www.amnesty.org.uk/press-releases/extinction-rebellion-blanket-ban-chilling-and-unlawful

¹⁰ By wealthy industrialised nations, we are generally referring to countries that are considered as 'developed countries' in Annex 1 of the UNFCCC.

¹¹ Amnesty International, *After UN Climate Action Summit, Urgent Action Needed by all States to avoid Human Rights Violations on Massive Scale*, 16 October 2019, Index: IOR 40/1239/2019, www.amnesty.org/en/documents/ior40/1239/2019/en/

¹² United Nations Environment Program, *United in Science*, September 2019, wedocs.unep.org/bitstream/handle/20.500.11822/30023/climsci.pdf?sequence=1&isAllowed=y

¹³ Climate Transparency, *Brown to Green: The G20 Transition towards a Net-Zero Emissions Economy 2019*, November 2019, www.climate-transparency.org/g20-climate-performance/g20report2019

¹⁴ CNN 'No G20 countries are meeting climate targets' 14 November 2018, edition.cnn.com/2018/11/14/europe/g20-climate-targets-fossil-fuel-report-intl/index.html

¹⁵ ODI and others, *G20 coal subsidies: Tracking government support to a fading industry*, June 2019, www.odi.org/publications/11355-g20-coal-subsidies-tracking-government-support-fading-industry

¹⁶ Climate Transparency, *Brown to Green: The G20 Transition towards a Net-Zero Emissions Economy 2019*, November 2019, www.climate-transparency.org/g20-climate-performance/g20report2019

¹⁷ ODI and others, *G20 coal subsidies: Tracking government support to a fading industry*, June 2019, www.odi.org/publications/11355-g20-coal-subsidies-tracking-government-support-fading-industry

¹⁸ Climate Transparency, *Brown to Green Report*, 2018. www.climate-transparency.org/g20-climate-performance/g20report2018

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levels and that mitigation and adaptation efforts do not translate into an excessive burden for people in developing countries.¹⁹ The wealthy industrialized nations, particularly those with the greatest historical responsibility for the climate crisis,²⁰ have the obligation, under international human rights law,²¹ to mobilize more resources for mitigation and adaptation, as well as new and additional resources for loss and damage. States should also use every opportunity to effectively cooperate on this issue, including international and regional political and economic forums to boost climate finance and support one another in leading a just and human rights compliant transition to a zero-carbon economy by 2050 at the latest, both at home and abroad.

RECOMMENDATIONS TO PARTIES TO THE UNFCCC ON STEPS TO PROTECT HUMAN RIGHTS AT COP25

RECOMMENDATIONS TO ALL STATES

Amnesty International is making the following recommendations to UNFCCC member states in the run-up to and during COP25:

RAISE AMBITION IN CLIMATE ACTION TO REDUCE GREENHOUSE GAS EMISSIONS IN LINE WITH KEEPING THE TEMPERATURE RISE AS LOW AS POSSIBLE AND NO HIGHER THAN 1.5C AND IN A MANNER THAT ADVANCES HUMAN RIGHTS

- As soon as possible, announce new Nationally Determined Contributions (NDCs) which will align their emissions reduction targets for 2030 and 2050 with the imperative to keep the increase of global average temperature as low as possible and no higher than 1.5°C above pre-industrial levels. The NDCs should:
 - Include clear timelines to rapidly end fossil fuel subsidies and the use of all fossil fuels as soon as possible and to shift to 100 per cent zero carbon energy generated in full compliance with human rights standards as quickly as possible based on their capacities and responsibility for emissions, and no later than 2050, in line with the IPCC's guidance;
 - Aim to establish regulations and policy measures and ensure that businesses move towards zero carbon emissions before 2050;
 - Include adequate measures to ensure that the transition towards a zero-carbon economy and a more resilient society is just, fair, human rights compliant and reduces inequality;
 - Include information about measures taken to ensure the meaningful participation of the population and groups most affected by the climate crisis in the design, implementation, monitoring and evaluation of the NDCs.
- Respect, protect and fulfil the right to information, participation and to effective remedies, as well as to freedom of expression and assembly in all climate policies and strategies in line with human rights law and Sustainable Development Goal 16 (peace, justice and strong institutions).
 - All human rights defenders, including climate activists and those working to protect the land, territory and the environment must be allowed to continue their legitimate work without fear of reprisals in a safe and enabling environment, with particular attention to those who face intersecting forms of discrimination, such as women human rights defenders and Indigenous human rights defenders.

ENSURE A ROBUST LOSS AND DAMAGE MECHANISM IS IN PLACE TO PROVIDE SUPPORT AND REMEDY TO PEOPLE WHOSE HUMAN RIGHTS ARE AFFECTED BY THE CLIMATE CRISIS

Ensure that the review of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (WIM) results in an adequate mechanism to provide means, support and access to legal remedy, including compensation, to people whose rights have been negatively affected as the result of loss and damage caused by the climate crisis, particularly in developing and climate vulnerable countries. In particular, the review should:

- Fully assess the WIM's success in fulfilling its original mandate, including critically assessing its ability to address Loss and Damage (as mandated in Article 8.1) and to provide action and support (as mandated in Article 8.3), as well as considering its ability to adequately meet future needs in light of the predicted increase in climate events in the future.

¹⁹ Oxfam, *Climate Finance Shadow Report 2018: Assessing Progress Towards the \$100 Billion Commitment*, May 2018, www.oxfam.org/en/research/climate-finance-shadow-report-2018

²⁰ The US, UK and Germany have per capita greenhouse gas cumulative emissions between 1751 to 2018 that are six times or more the global average. Russia, Canada and Australia have four to five times the global average. Meanwhile, China and India are well below the global mean. James Hansen and Makiko Sato, *Environmental Research Letters*, Vol. 11, No.3, p. 6, 2 March 2016, www.iopscience.iop.org/article/10.1088/1748-9326/11/3/034009

²¹ This is based on the obligations of international assistance (e.g. in Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the obligation to provide remedy for contribution to harm caused to the rights of others. The right to effective remedies extends to human rights violations caused by environmental harm, including harms related to climate change. UNGA, *Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, 2016. A/HRC/31/52, para. 62. Based on the fact that developed countries have contributed the most to the global accumulation of carbon emissions and they have greater ability to provide funding, developed countries bear a greater responsibility to mobilise finance to help developing countries respond to climate change.

- Strengthen the WIM function to provide “access and support”, including by setting up a financing facility to deliver new and additional finance to address loss and damage without detracting from finance for climate mitigation, adaptation or development assistance.
 - The finance mechanism should ensure meaningful participation of the most impacted groups, including children, women, Indigenous peoples and marginalised groups, particularly those facing multiple and intersecting forms of discrimination, in policy design and decision-making phases.
- Establish a Task Force, with inclusive representation of civil society and climate vulnerable nations, tasked to deliver clear recommendations to COP26 in 2020 on how to operationalise a finance facility capable of generating substantial resources, including by exploring innovative funding able to produce truly additional resources accessible to the people more vulnerable to the human rights impacts of the climate crisis.
- Identify gaps in assessing Non-Economic Losses, including methodologies for assessing unquantifiable impacts on human rights both after disasters or as a consequence of slow-onset events.
- Recognise the WIM as under the governance of both the COP and the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA).

AGREE ON RULES FOR STATES TO COOPERATE ON EMISSIONS REDUCTIONS THAT WILL ALLOW FOR SUFFICIENT REDUCTIONS AND RESPECT HUMAN RIGHTS

Adopt robust and detailed implementation rules for Article 6 of the Paris Agreement to enable cooperative approaches to respect, protect and fulfil human rights and to enhance climate action. In particular member states should:

- Ensure that the guidelines for the implementation of Article 6 of the Paris Agreement recognize the importance of respecting, protecting and fulfilling human rights when engaging in cooperative approaches.
- Include adequate human rights safeguards in the guidelines for the implementation of Article 6.
 - These must include provisions obliging parties to carry out human rights impacts assessments before adopting a project, policy or programme under Article 6.
 - Such safeguards should also ensure access to information and adequate public participation of affected individuals and communities, in particular minority communities, and respect of the right of free, prior and informed consent of Indigenous peoples, including when states would like to make use of Indigenous peoples’ knowledge in climate change measures.
 - An independent, accessible and effective grievance mechanism should also be put in place to ensure that communities can seek remedy for any harm caused by projects carried out under Article 6.
- Ensure that cooperation between states under Article 6 mechanisms leads to genuine emissions reduction, rather than the creation of an additional barrier to effective climate action, by:
 - Guaranteeing that clear rules are put in place to secure a robust accounting mechanism to prevent double counting, including rules dictating the implementation of corresponding adjustments and establishing a clear supervisory tool to ensure that emission reductions deriving from Article 6 are correctly calculated to mirror the actual mitigation outcome produced
 - Preventing the accounting of Clean Development Mechanism (CDM) carbon credits towards the emission reductions targets set by states under the Paris Agreement
 - Drafting safeguards for both the sale and purchase of carbon credits, including a limit on the amount of carbon credits that a country can buy and sell. This will ensure that countries that wish to support emission-reduction projects also mitigate emissions within their own territory, and that countries producing credits do not produce excess credits that flood the market.

IMPROVE PLANS TO ENSURE THAT INTERNATIONAL CLIMATE POLICIES MAINSTREAM GENDER EQUALITY AND ADDRESS INTERSECTING FORMS OF DISCRIMINATION

Advance gender-sensitive and human rights-consistent climate action by extending the UNFCCC’s Lima Work Programme on Gender (LWPG) and renewing and enhancing its associated Gender Action Plan (GAP). In particular, ensure that an enhanced GAP:

- Adopts a more inclusive and intersectional approach, which ensures that people facing multiple and intersecting forms of discrimination and inequality are not left behind and are adequately included in climate change responses.
- Includes clear targets and indicators (including of impact and effectiveness), as well as timelines for activities and outputs, in order to facilitate and improve the monitoring of stakeholders’ and secretariat progress in the implementation of the GAP.
- Contributes to further identifying, including through the collection of data disaggregated by gender and other forms of discrimination, the differentiated human rights impacts of the climate crisis and its effects on women and marginalised groups, in particular those affected by intersecting forms of discrimination and inequality.
- Strengthens capacity, leadership and participation of all women in their diversity, in national climate decision-making and at

the UNFCCC level.

- Contributes to the integration of gender and intersectional perspectives in national planning documents, such as the NDCs and National Adaptation Plans, including by providing technical and financial support, and enhancing participation of women and marginalised groups, in particular those facing multiple and intersecting forms of inequality and discrimination, in the processes leading to the elaboration and adoptions of such documents.
- Enhances women's and marginalised groups' access to climate finance, particularly for those facing multiple and intersecting forms of discrimination, and ensures that adequate consideration is given to gender issues when allocating funds for climate projects and programmes.
- Adequately considers the gender and intersectional dimensions of climate mitigation and adaptation policies and programmes, including through gender-impact assessments, to ensure that climate decisions and measures do not increase gender and intersecting forms of inequality and instead facilitate access to decent work for women and marginalised groups, in particular those experiencing intersecting forms of inequality and discrimination, and promote their rights
- Identifies and secures adequate funding to support its implementation at all levels.

SPECIFIC RECOMMENDATIONS TO WEALTHIER INDUSTRIALIZED COUNTRIES WITH GREATER CAPACITY AND HISTORICAL RESPONSIBILITY

- Adopt more ambitious emission reduction targets that would enable them to halve emissions well before 2030 and reach zero carbon emissions by 2030 or as soon as feasible after that, given their greater capacity and greater contribution to the climate crisis;
- Substantially increase funding and support for human rights-consistent climate initiatives, including technology transfer, in less wealthy countries that would not be able to effectively mitigate and adapt to climate change themselves;
- Provide means, support and access to legal remedy, including compensation, to people whose rights have been negatively affected as the result of loss and damage caused by climate change, particularly in less wealthy countries.

SPECIFIC RECOMMENDATIONS TO LATIN AMERICAN AND CARIBBEAN COUNTRIES

- Promptly ratify the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement) and ensure it is fully implemented.

In September 2019, the High Commissioner for Human Rights Michele Bachelet warned the UN Human Rights Council that climate change is the greatest ever threat to human rights.²² Two weeks later, at the UN Climate Action Summit, the UN Secretary General Antonio Guterres reminded states that the climate emergency is a race we are losing, and if we do not urgently change our ways of life, we jeopardize life itself. He also said it is a race we can win.²³ By adopting robust and ambitious decisions in Madrid, governments can demonstrate their full commitment to placing the rights of individuals and communities at the centre of their responses to this urgent issue.

²² Michele Bachelet, *Global update at the 42nd session of the Human Rights Council*, 9 September 2019, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24956&LangID=E

²³ António Guterres, *Remarks at 2019 Climate Action Summit*, 23 September 2019, <https://www.un.org/sg/en/content/sg/speeches/2019-09-23/remarks-2019-climate-action-summit>