
Advance edited version

Distr.: General
28 August 2024

Original: English

Human Rights Council**Fifty-seventh session**

9 September–9 October 2024

Agenda items 2 and 3

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

**Analytical study on the impact of loss and damage from the
adverse effects of climate change on the full enjoyment of
human rights, exploring equity-based approaches and
solutions to addressing the same**

Report of the Secretary-General*

Summary

The present report of the Secretary-General, submitted pursuant to Human Rights Council resolution 53/6, contains an exploration of the interlinkages between human rights and loss and damage from climate change. The report includes the identification of legal and policy frameworks relevant to ensuring effective remedies for loss and damage, a description of human rights- and equity-based approaches and solutions and a series of recommendations.

* The present report was submitted to the conference services for processing after the deadline for technical reasons beyond the control of the submitting office.

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 53/6, in which the Council requested the Secretary-General to conduct an analytical study on the impact of loss and damage from the adverse effects of climate change on the full enjoyment of human rights, exploring equity-based approaches and solutions to addressing the same, and to submit the study to the Council at its fifty-seventh session. The analytical study is informed by responses to a questionnaire sent by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in October 2023.¹

2. The Intergovernmental Panel on Climate Change has found that climate change is caused primarily by greenhouse gas emissions related to human activities and has caused widespread adverse impacts and related losses and damages to nature and people.² Estimates of the annual economic cost of loss and damage in developing countries alone amounted to at least \$435 billion in 2020, a figure that is expected to rise to at least \$580 billion by 2030, excluding non-economic losses and damages.³ Projected losses and damages escalate with every increment of global warming, while limiting global warming to 1.5 degrees Celsius would substantially reduce them.⁴

3. The outcome document of the first global stocktake, adopted at the Conference of the Parties to the United Nations Framework Convention on Climate Change at its twenty-eighth session, in 2023, acknowledged the significant gaps, including in financing, that remained in responding to the increased scale and frequency of loss and damage.⁵ Averting, minimizing and addressing loss and damage require immediate, effective and fair mitigation, adaptation and remedies for climate change-related harms as a legal, moral, development and economic imperative.⁶ Human rights- and equity-based approaches lead to more sustainable outcomes, and redistributive policies across sectors and regions that shield the poor and vulnerable, social safety nets, equity, inclusion and just transitions at all scales can enable deeper societal ambitions and resolve trade-offs with the Sustainable Development Goals, as affirmed by the Intergovernmental Panel on Climate Change.⁷

II. Loss and damage understood in terms of impacts on the full enjoyment of human rights

4. Loss and damage, referring to harm from the adverse impacts of climate change, can affect the full enjoyment of human rights. Respecting, protecting and fulfilling human rights amid the climate crisis require taking effective action to address harm to human rights from loss and damage, including economic and non-economic loss and damage. The impact of loss and damage on human rights can be both direct and indirect, with cascading implications for different interconnected rights.

5. The adverse impacts of climate change on the enjoyment of human rights have been addressed and described in previous resolutions and reports to the Human Rights Council,

¹ Submissions are available at <https://www.ohchr.org/en/calls-for-input/2024/impact-loss-and-damage-adverse-effects-climate-change-human-rights>.

² Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Cambridge, United Kingdom of Great Britain and Northern Ireland, and New York, Cambridge University Press, 2022), p. 9.

³ United Nations Conference on Trade and Development (UNCTAD), “Taking responsibility: towards a fit-for-purpose loss and damage fund” (Geneva, 2023), pp. vii and 3. The figures cited are now considered to be vastly underestimated.

⁴ Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, p. 14.

⁵ [FCCC/PA/CMA/2023/16/Add.1](#), decision 1/CMA.5, para. 128.

⁶ See OHCHR, “Key messages on human rights and loss and damage” (2023).

⁷ Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report* (Geneva, 2023), para. C.5.2.

including with respect to the rights to life, food, health, housing, self-determination, water, sanitation, decent work and a clean, healthy and sustainable environment.⁸

A. Unequal impact of loss and damage on different population groups and countries

6. Poverty, geography and historical and structural inequity and discrimination affect people's exposure and vulnerability to the adverse effects of climate change.⁹ According to the Intergovernmental Panel on Climate Change, losses and damages are unequally distributed across systems, regions and sectors and strongly concentrated among the poorest vulnerable populations.¹⁰ According to the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, globally, the historical emissions leading to modern climate change were interlinked with exploitative economic models, legacies of colonialism and structural racism.¹¹ According to the Intergovernmental Panel on Climate Change, the present development challenges causing high vulnerability are influenced by historical and ongoing patterns of inequity, such as colonialism, especially for many Indigenous Peoples and local communities.¹² As stressed by the United Nations High Commissioner for Human Rights, countries that benefited the least from the industrial revolution have been left without the support necessary to protect their people and their environments.¹³

7. Climate change impacts are geographically differentiated, with global hotspots of high risk in West, Central and East Africa, South Asia, Central and South America, small island developing States and the Arctic, according to the Intergovernmental Panel on Climate Change.¹⁴ Loss and damage also deepens poverty. A report by the Vulnerable Twenty Group of Ministers of Finance of the Climate Vulnerable Forum has estimated that the countries represented by the Group would have been 20 per cent wealthier without climate change.¹⁵ In an average year, poor households lose 5 per cent of their total income due to heat stress and 4.4 per cent due to floods.¹⁶

8. The rights of certain groups of people are disproportionately and often intersectionally affected, including those of Indigenous Peoples, peasants, migrants, children, women and girls, persons with disabilities, older persons, people living in small island developing States and least developed countries and certain racial and ethnic groups. Climate impacts, like disrupted education, have implications for children's rights and for intergenerational equity.¹⁷ Loss and damage experienced by persons in vulnerable situations, such as persons with disabilities, can remain unaccounted for due to a lack of disaggregated data or unaddressed due to discriminatory laws.¹⁸

⁸ See, for example, Human Rights Council resolutions 7/23, 10/4, 18/22, 26/27, 29/15, 32/33, 35/20, 38/4, 41/21, 44/7, 47/24, 50/9 and 53/6; and [A/HRC/31/52](#), [A/HRC/32/23](#), [A/HRC/35/13](#), [A/HRC/38/21](#), [A/HRC/41/26](#), [A/HRC/44/30](#), [A/HRC/47/46](#), [A/HRC/50/57](#), [A/HRC/53/47](#) and [A/HRC/55/37](#).

⁹ [A/HRC/50/57](#), para. 44.

¹⁰ Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation and Vulnerability*, p. 26.

¹¹ See [A/77/549](#).

¹² Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report*, p. 101.

¹³ OHCHR, "Human Rights: a Path for Solutions" (2024).

¹⁴ Intergovernmental Panel on Climate Change, *Climate Change 2023: Synthesis Report*, p. 51.

¹⁵ Florent Baarsch, Issa Awal and Michiel Schaeffer, "Climate vulnerable economies loss report: economic losses attributable to climate change in V20 economies over the last two decades (2000–2019)" (Climate Vulnerable Forum and Vulnerable Twenty Group, 2022).

¹⁶ Food and Agriculture Organization of the United Nations (FAO), *The Unjust Climate: Measuring the Impacts of Climate Change on Rural Poor, Women and Youth* (Rome, 2024).

¹⁷ Submissions from Plan International and Save the Children International; and [A/HRC/43/30](#).

¹⁸ Submission from CBM Global Disability Inclusion.

B. Loss and damage and its impact on economic and social rights

9. Economic loss and damage, including due to affected income, livelihoods, crops, assets and infrastructure, impacts the enjoyment of human rights, including economic and social rights, such as the rights to health, food, housing, development, decent work and an adequate standard of living, and reduce the fiscal space for rights-enhancing spending. Climate change-related drought, for example, affects the rights to water and sanitation. The rights to food and an adequate standard of living are affected when subsistence crops and fisheries are decimated.¹⁹ The right to housing is affected when climate events destroy homes or render housing unsafe.²⁰

10. The outcome of the first global stocktake highlighted the ways in which economic and non-economic loss and damage is resulting in reduced fiscal space and constraints in the achievement of the Sustainable Development Goals.²¹ As such, loss and damage may hamper the ability and capacity of States to devote the maximum available resources to the realization of human rights. The onset of more frequent and intense climate events requires increasing humanitarian and development financing and establishing more robust preventive frameworks to build resilience and minimize the losses caused by disasters.

C. Non-economic loss and damage and its impact on human rights

11. According to a technical paper by the secretariat of the United Nations Framework Convention on Climate Change, non-economic losses refer to losses that are not commonly traded in markets and may impact individuals, society or the environment.²² They include: the loss of life, health or mobility (individuals); the loss of territory, cultural heritage, Indigenous knowledge, local knowledge or societal or cultural identity (society); and the loss of biodiversity or ecosystem services (environment).²³ Economic and non-economic losses and damages are terms describing different, although sometimes overlapping, dimensions of harm from climate change. For instance, in the Philippines, between 2011 and 2021, climate change-related typhoons caused an estimated \$12 billion worth of loss, which was compounded by thousands of deaths and related trauma.²⁴

12. Since climate change exacerbates, inter alia, biodiversity loss, ecosystem degradation, soil depletion and desertification, it frequently impedes the effective enjoyment of the right to a clean, healthy and sustainable environment and interrelated cultural rights.²⁵ Rapid warming, the thawing of the permafrost and the lack of winter ice in the Arctic harm Indigenous Peoples' rights when their cultures, lifestyles, health and livelihoods linked to the environment are threatened.²⁶ The loss of ancestral living spaces, the degradation of key ecosystems and reduced water availability due to climate impacts have led to migration and the associated loss of cultural, religious and traditional practices and linguistic diversity, for example, disrupting the migratory patterns of pastoralists.²⁷

13. Premature loss of life due to climate impacts can be a form of loss and damage and a violation of the right to life.²⁸ As stated by the Human Rights Committee in paragraph 62 of its general comment No. 36 (2018), climate change constitutes one of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life. According to the World Meteorological Organization (WMO), extreme weather caused over

¹⁹ See [A/HRC/53/47](#) and [A/HRC/55/37](#).

²⁰ See [A/HRC/52/28](#); and submission from Displacement Solutions.

²¹ [FCCC/PA/CMA/2023/16/Add.1](#), decision 1/CMA.5, para. 129.

²² See <https://unfccc.int/sites/default/files/resource/docs/2013/tp/02.pdf>, para. 159.

²³ See <https://unfccc.int/sites/default/files/resource/docs/2013/tp/02.pdf>, table 2.

²⁴ Submissions from the Philippines and the Commission on Human Rights of the Philippines.

²⁵ See, for example submission from Ecuador (in Spanish).

²⁶ Submissions from the Danish Institute for Human Rights and the Alaska Native Women's Resource Center.

²⁷ Submission from IMAL Initiative for Climate and Development.

²⁸ See <https://unfccc.int/sites/default/files/resource/docs/2013/tp/02.pdf>, paras. 75–77 and table 2.

2 million deaths between 1970 and 2021.²⁹ About 37 per cent of heat-related deaths can be linked to climate change.³⁰ Poverty exacerbates such risks, compelling work even in unsafe temperatures. In Iraq, dust storms and heat exceeding 50 degrees Celsius have led to the loss of life.³¹ Discrimination and inequality deepen risks. For example, studies suggest that greater inequality within countries is correlated with higher flood mortality.³²

14. There is also a nexus between climate change, conflict, hunger and mobility. Displacement, according to the Office of the United Nations High Commissioner for Refugees (UNHCR), can be a form and a consequence of loss and damage and can drive further harm, such as exploitation and gender-based violence.³³ Most refugees and internally displaced persons come from 48 fragile or conflict-affected States, which are also among those most vulnerable to climate change and the least ready to adapt.³⁴ Climate impacts may interact with conflict, violence or other persecution as interrelated drivers of displacement, multiplying loss and damage.³⁵

15. Non-economic losses and damages are vast and rising exponentially as climate impacts become more prevalent across systems, including in terms of affecting the full and effective enjoyment of human rights, reaffirming the case for urgent action.

III. Legal and policy frameworks for addressing the impact of loss and damage on human rights

16. Overall, human rights norms, standards, considerations and obligations should shape and guide all climate action. International human rights law applies to averting, minimizing and addressing loss and damage associated with climate change and its impact on human rights. The need for a rights-based approach to climate action is affirmed in the Paris Agreement, whose preamble includes the provision that Parties should respect, promote and consider their respective obligations on human rights when taking action to address climate change. In paragraph 45 of its general recommendation No. 37 (2018), the Committee on the Elimination of Discrimination against Women affirmed that any steps taken by States to prevent, mitigate and respond to climate change and disasters within their own jurisdictions or extraterritorially must be firmly grounded in the human rights principles of substantive equality and non-discrimination, participation and empowerment, accountability and access to justice, transparency and the rule of law.

17. The right to an effective remedy is a fundamental principle of international human rights law.³⁶ It applies to human rights violations relating to loss and damage from climate change. For example, the Committee on the Rights of the Child has encouraged States to take note that, from a human rights perspective, loss and damage is closely related to the right to remedy and the principle of reparations, including restitution, compensation and rehabilitation.³⁷

18. International human rights law calls for remedies to be provided for its violation. Remedies should be available and accessible to all people for human rights violations resulting from loss and damage. According to OHCHR, the obligations of States in the

²⁹ See <https://wmo.int/news/media-centre/economic-costs-of-weather-related-disasters-soars-early-warnings-save-lives>.

³⁰ World Health Organization (WHO), "Climate change", 12 October 2023, available at <https://www.who.int/news-room/fact-sheets/detail/climate-change-and-health>.

³¹ Submission from Iraq.

³² Submission from Oxfam International.

³³ Submission from UNHCR.

³⁴ Ibid.

³⁵ See, for example, [A/HRC/38/21](#); and submissions from International Organization for Migration (IOM) and UNHCR.

³⁶ See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law; and Human Rights Committee, general comment No. 31 (2004).

³⁷ Committee on the Rights of the Child, general comment No. 26 (2023), para. 106. See also [A/77/226](#), para. 26.

context of climate change extend to all rights holders and to harm that occurs both inside and beyond boundaries, to whom they should be accountable for their contributions to climate change, including for failure to adequately regulate the emissions of businesses under their jurisdiction.³⁸ The Committee on the Rights of the Child has affirmed that States have obligations to address any harm and climate change-related risks to children's rights in the context of business enterprises' extraterritorial activities and operations and should enable access to effective remedies.³⁹

19. Remedies for loss and damage could also be informed by other international law principles, including the principles of equity, the polluter pays principle and common but differentiated responsibilities and respective capabilities. Remedies and reparatory justice require a comprehensive and multipronged approach grounded in international human rights law, including, where appropriate, the right to reparations, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.⁴⁰ Compensation could be provided for loss and damage to redress harm and the associated violations of human rights. The United Nations Declaration on the Rights of Indigenous Peoples contains an elaboration of remedies, including compensation, and the statement that Indigenous Peoples have the right to redress for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent, and that, unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress (art. 28). The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas recognizes the right of peasants and other people working in rural areas to effective and non-discriminatory access to justice and contains a call for States to provide effective and prompt remedies. These may include the right of appeal, restitution, indemnity, compensation and reparation, as well as the right of peasants and other people working in rural areas to return to their land and to the restoration of their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, including following disasters, or compensation when return is not possible (arts. 12 (1) and (2) and 17 (5)).

20. In general, compensation can be provided for any economically assessable damage, appropriate and proportional to the gravity and circumstances of the violation, for example, physical or mental harm, material damages and loss of earnings, moral damage, health-care and social services costs and lost opportunities, including employment, education and social benefits.⁴¹ In the case of non-economic loss and damage, compensation could be provided, for example, for damage to ecosystems and human rights harms. Difficulties in quantifying non-economic loss and damage should not, in principle, preclude compensation. For instance, while the loss of life is ethically irremediable, there remains an underlying legal obligation to provide effective remedies and reparation to victims of arbitrary deprivation of the right to life.⁴² Under human rights law, those responsible for climate change are accountable for compensatory measures, including financial, for harm incurred.

21. In the outcome document of its twenty-eighth session, the Conference of the Parties urged the developed country parties to continue to provide support, and encouraged other parties to provide, or continue to provide, support, on a voluntary basis, for activities to address loss and damage.⁴³ In addition to the decisions adopted under the United Nations Framework Convention on Climate Change, international cooperation and financing obligations are enshrined, inter alia, in international human rights law. Under the

³⁸ A/HRC/32/23, para. 38.

³⁹ Committee on the Rights of the Child, general comment No. 26 (2023), para. 108.

⁴⁰ See A/78/317; and Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

⁴¹ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para. 20.

⁴² Human Rights Committee, general comment No. 36 (2018), para. 4.

⁴³ FCCC/PA/CMA/2023/16/Add.1, decision 1/CMA.5, para. 88.

International Covenant on Economic, Social and Cultural Rights, States parties undertake to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources with a view to achieving progressively economic, social and cultural rights by all appropriate means (art. 2 (1)). According to the Committee on Economic, Social and Cultural Rights, States should use the maximum available resources to address the impact of climate change, particularly on disadvantaged groups.⁴⁴ Multiple United Nations human rights treaty bodies have affirmed that States have legal obligations to cooperate in good faith in the establishment of global responses addressing climate-related loss and damage suffered by the most vulnerable countries.⁴⁵ The Committee on the Rights of the Child has specifically called for States to take measures, including through international cooperation, to provide financial and technical assistance for addressing loss and damage.⁴⁶

22. Article 2 of the Paris Agreement contains a call for the agreement to be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances. The countries that have historically contributed most to climate change and those that are currently the main contributors shall, according to the Committee on Economic, Social and Cultural Rights, assist the countries most affected by climate change but least able to cope with its impact.⁴⁷ The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has noted that historical emissions are rooted in natural resource extraction, industrialization and industrial processes and consumption of the outputs of these processes⁴⁸ and that, from 1850 to 2002, industrialized countries produced three times the carbon dioxide produced by the entire global South.⁴⁹ According to Carbon Brief, allocating emissions under colonial rule to former colonial powers increases the share of responsibility of developed countries for climate change and associated harms.⁵⁰ Similarly, accounting for consumption-based emissions embodied in trade would result in a larger share of emissions being attributed to developed countries.⁵¹ Emissions by the Group of 20 countries accounted for 76 per cent of global greenhouse gas emissions in 2022; historically, between 1850 and 2021, they accounted for nearly 80 per cent of cumulative human-made carbon dioxide emissions.⁵²

23. With respect to business responsibilities, as recognized in the Guiding Principles on Business and Human Rights, where business enterprises identify that they have caused or contributed to adverse human rights impacts, they should provide for or cooperate in their remediation (principle 22). The Guiding Principles provide that, as part of their duty to protect against business-related human rights abuses, States must also take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that those affected have access to effective remedy (principle 25).⁵³ The Committee on the Rights of the Child has recalled that States have an obligation to establish non-judicial and judicial mechanisms to provide access to effective remedies for abuses of children's rights by business enterprises, including as a result of their extraterritorial activities and operations, provided that there is a reasonable link between the State and the conduct concerned.⁵⁴

⁴⁴ Committee on Economic, Social and Cultural Rights, general comment No. 26 (2022), para. 57.

⁴⁵ HRI/2019/1, para. 17.

⁴⁶ Committee on the Rights of the Child, general comment No. 26 (2023), para. 106.

⁴⁷ Committee on Economic, Social and Cultural Rights, general comment No. 26 (2022), para. 58.

⁴⁸ A/77/549, para. 12.

⁴⁹ Ibid., paras. 4 and 5.

⁵⁰ Carbon Brief, "Revealed: how colonial rule radically shifts historical responsibility for climate change", 26 November 2023.

⁵¹ Intergovernmental Panel on Climate Change, *Climate Change 2022: Mitigation of Climate Change* (2022), pp. 244 and 245.

⁵² United Nations Environment Programme (UNEP), *Emissions Gap Report 2023: Broken Record – Temperatures Hit New Highs, Yet World Fails to Cut Emissions (Again)* (Nairobi, 2023), pp. XVII and XVIII; estimates exclude the African Union, which became a permanent member of the Group of 20 in September 2023.

⁵³ See also OHCHR, *Access to Remedy in Cases of Business-related Human Rights Abuse: An Interpretive Guide – Advance Version* (New York and Geneva, 2024).

⁵⁴ Committee on the Rights of the Child, general comment No. 26 (2023), para. 88.

Similarly, the Committee on Economic, Social and Cultural Rights has stated that the extraterritorial obligation to protect requires States parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control, especially where the remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective.⁵⁵

24. Because long-term global warming is closely proportional to cumulative net carbon dioxide emissions from human activities, historical emissions source attribution is critical to the overall attribution of responsibilities for climate impacts. Carbon dioxide emissions from fossil fuel combustion and industrial processes account for around two thirds of current greenhouse gas emissions.⁵⁶ According to the Carbon Majors database, over 70 per cent of global fossil fuel and cement carbon dioxide emissions since the Industrial Revolution can be traced to 78 coal, oil, gas and cement producers.⁵⁷ Since at least the 1960s, some of those fossil fuel companies have undertaken extensive efforts to mislead the public and investors about their knowledge of the global warming effects of their products and to undermine, obstruct and delay climate action, policies and legislation, thereby contributing to greater loss and damage today.⁵⁸ There is thus a moral rationale and legal basis for holding such fossil fuel companies accountable for climate harm and reparations. In 2024, the State of Vermont, United States of America, passed a law requiring fossil fuel companies to pay damages for climate change.

25. The importance of averting, minimizing and addressing loss and damage is recognized in article 8 of the Paris Agreement. At its nineteenth session, the Conference of the Parties established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts to address loss and damage in particularly vulnerable developing countries.⁵⁹ As part of the funding arrangements under the United Nations Framework Convention on Climate Change, in a historic first step, the parties established and started to operationalize a loss and damage fund.⁶⁰ Notably, the parties emphasized that funding arrangements, including a fund, for responding to loss and damage were based on cooperation and facilitation and did not involve liability or compensation.⁶¹ The initial pledges for the loss and damage fund amounted to \$661 million.⁶² The pledges cover a fraction of the estimated annual costs of loss and damage.⁶³ While important, the United Nations Framework Convention on Climate Change loss and damage mechanisms are not currently designed or intended, in and of themselves, to fulfil the human rights obligations of States to provide effective remedies for climate harms.

⁵⁵ Committee on Economic, Social and Cultural Rights, general comment No. 24 (2017), para. 30.

⁵⁶ UNEP, *Emissions Gap Report 2023*, p. XVI.

⁵⁷ InfluenceMap, “The Carbon Majors database: launch report” (2024), p. 3.

⁵⁸ Submission from the Commission on Human Rights of the Philippines.

⁵⁹ FCCC/CP/2013/10/Add.1, decision 2/CP.19.

⁶⁰ FCCC/CP/2023/11/Add.1, decision 1/CP.28. See also OHCHR submission to the fourth meeting of the transitional committee on the operationalization of the new funding arrangements for responding to loss and damage and the fund established in paragraph 3 of decisions 2/CP.27 and 2/CMA.4, 2023, available at https://unfccc.int/sites/default/files/resource/OHCHR%20Submission%20on%20Loss%20and%20Damage%20for%20TC4%202023_Oct2023.pdf.

⁶¹ FCCC/CP/2023/11/Add.1, decision 1/CP.28. See also FCCC/CP/2022/10, para. 7 (b); and FCCC/PA/CMA/2022/10, para. 71.

⁶² United Nations Framework Convention on Climate Change, “Pledges to the loss and damage fund”, available at <https://unfccc.int/process-and-meetings/bodies/funds-and-financial-entities/loss-and-damage-fund-joint-interim-secretariat/pledges-to-the-loss-and-damage-fund>.

⁶³ UNCTAD, “Taking responsibility: towards a fit-for-purpose loss and damage fund”, p. viii; and Julie-Anne Richards and others, *The Loss and Damage Finance Landscape* (The Loss and Damage Collaboration, 2023), p. 6.

IV. Human rights and equity-based approaches to addressing loss and damage

26. The present section outlines human rights and equity-based approaches to loss and damage, such as: (a) anchoring relevant policies and measures, including nationally determined contributions, national adaptation plans and long-term low-emission development strategies, in human rights; (b) building climate resilience through social security and a just transition towards a human rights economy; (c) promoting human rights- and equity-based approaches to mobilizing financing and freeing fiscal space; (d) advancing access to judicial remedy; and (e) developing transitional justice approaches. The approaches outlined should be seen as mutually reinforcing.

A. Integrating a human rights- and equity-based approach to loss and damage in climate laws, policies and assessments

27. Using human rights as guardrails for climate laws, policies and assessments is key to effective and equitable responses to loss and damage. Loss and damage is increasingly mentioned across climate policies. Of recent nationally determined contributions, 35 per cent refer explicitly to loss and damage,⁶⁴ and of national adaptation plans, 49 per cent do.⁶⁵ Most countries, however, have yet to assess their loss and damage risks and financial needs or determine how to address loss and damage, particularly non-economic loss and damage.⁶⁶

28. Similarly, while important progress has been made in anchoring countries' development strategies in human rights, such progress is not yet the case for many climate policies, including nationally determined contributions, national adaptation plans and long-term low-emission development strategies. Knowledge regarding the human rights aspects of, and approaches to, loss and damage remains scarce and fragmented. Acting under the United Nations Framework Convention on Climate Change, the Warsaw International Mechanism for Loss and Damage, the expert group on non-economic losses and the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change could help to expand knowledge about the nexus between human rights, disaster risk reduction and loss and damage, including through human rights impact assessments. The creation of equity-based mechanisms and initiatives under relevant United Nations entities to assess, value, quantify and compensate for loss and damage, including the human rights impacts, should also be explored.

29. In contributions to the present report, States and other stakeholders identified elements for ensuring the consistency of loss and damage-related assessments and responses with human rights. Assessments should be rights-based, needs-based and community-led. They should account holistically for economic and non-economic loss and damage. This includes redressing structural and historical inequalities and discrimination in remedies and valuation, such as valuing all lives equally and rectifying discriminatory undervaluation. Assessments should apply the precautionary principle to assess risk, including of tipping points. The Co-Chairs of the International Law Commission's Study Group on sea-level rise in relation to international law have emphasized human dignity, a combination of needs-based and rights-based approaches, the applicability of general human rights obligations, non-discrimination and the protection of cultural heritage.⁶⁷

30. States, non-State actors, international organizations and civil society should integrate procedural safeguards, in particular those benefiting climate-affected communities. They should work together with front-line communities and individuals to ensure their inclusive, safe and meaningful participation in assessing and addressing loss and damage, applying their

⁶⁴ FAO, *Loss and Damage in Agrifood Systems: Addressing Gaps and Challenges* (Rome, 2023), p. xi.

⁶⁵ UNEP, *Adaptation Gap Report 2023: Underfinanced. Underprepared. Inadequate Investment and Planning on Climate Adaptation Leaves World Exposed* (Nairobi, 2023), p. 72.

⁶⁶ *Ibid.*, pp. XVIII, XIX and 68.

⁶⁷ [A/CN.4/774](#).

lived experiences and expertise.⁶⁸ Examples range from the community-led participatory mapping of needs and qualitative data collection, such as testimonies concerning sacred sites, to initiatives such as the multidimensional vulnerability index.⁶⁹ Rights-based assessments should be used to inform policies, funding, remedies and the valuation of compensation.⁷⁰ States should also fulfil the right to information, including climate risk data, and to benefit from the best available science, including through the Early Warnings for All initiative.⁷¹

31. Human rights-consistent loss and damage assessments, responses and policies should take into account impacts on disproportionately affected groups, including Indigenous Peoples, women and children, and the effects of historical and structural discrimination. The robust collection of disaggregated data and intersectional, gender-responsive and child-responsive analysis can help to ensure that the diverse experiences of loss and damage beyond marketable interests are effectively addressed.

32. Direct access arrangements to funding should be available to all those affected by climate change, particularly marginalized and disadvantaged people and communities.⁷² Direct access advances rights-based solutions, including in conflict and fragile settings, whether facilitated as part of national budget support, including for social protection, or through international small grant and other modalities, including under the loss and damage fund. Front-line communities currently receive very little international climate finance. Notably, Indigenous Peoples receive less than 1 per cent of the total.⁷³

33. Human rights impact assessments and approaches should be used to assess and address the full spectrum of the human rights dimensions of loss and damage. They can help to safeguard rights relating to land, territories, water and resources, including rights to housing, food and a clean, healthy and sustainable environment. States should recognize and value customary, informal and other types of rights relating to the land, territories and resources of Indigenous Peoples and the rights of peasants and other people working in rural areas, provide equitable remedies for impacts on all types of housing and consider reforms to redistribute land to climate-displaced people.⁷⁴ States should ensure that all people, including Indigenous Peoples, racially and ethnically marginalized people and those facing the risk of displacement, can meaningfully participate in and lead policymaking and decision-making in the face of climate impacts, such as sea-level rise and the loss of statehood, territory and maritime entitlements, and realize their right to self-determination, where applicable.⁷⁵

34. The effective regulation of private sector involvement in loss and damage responses is also critical.⁷⁶ The Special Rapporteur on extreme poverty and human rights has warned that overreliance on the private sector could lead to a scenario in which the wealthy pay to escape climate impacts.⁷⁷ States should ensure that responses, such as restitution and post-disaster rebuilding, are led by the affected communities instead of businesses. In order to maintain a human rights-based approach, particular vigilance is required when engaging the private sector in the delivery of basic services to ensure that profit motives do not interfere with rights, such as to water, sanitation, housing and education. Businesses involved in loss and damage responses must respect human rights and meet their responsibilities under the

⁶⁸ [A/HRC/50/57](#), para. 51; and submissions from United Nations Development Programme (UNDP) and Honduras (in Spanish).

⁶⁹ See General Assembly resolution 78/322.

⁷⁰ Submissions from Malaysia and the national human rights institution of Argentina.

⁷¹ Submission from International Telecommunication Union.

⁷² Submissions from UNDP, IOM and Oxfam International.

⁷³ Submission from UNDP.

⁷⁴ [A/HRC/52/28](#); Committee on Economic, Social and Cultural Rights, general comment No. 26 (2022); United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, art. 17 (6); and submissions from the Ombudsperson of Bosnia and Herzegovina and Displacement Solutions.

⁷⁵ [A/77/549](#), para. 75; and [A/CN.4/774](#).

⁷⁶ [A/HRC/56/34](#).

⁷⁷ [A/HRC/41/39](#) and [A/HRC/41/39/Corr.1](#), paras. 50 and 51.

Guiding Principles on Business and Human Rights to help to ensure that their efforts benefit people.

35. Promoting rights-based mobility pathways and remedies for displacement, including supporting rights holders' mobility aspirations, is essential to addressing loss and damage.⁷⁸ States should ensure safe, regular, dignified and accessible mobility pathways, legal protections for persons displaced internally and across international borders and durable solutions for immobile and trapped populations.⁷⁹ They should develop and invest in rights-based support for people moving from areas that become uninhabitable due to climate effects.⁸⁰

B. Human rights- and equity-based approaches to strengthen climate resilience

36. The conventional project-based model of climate finance is likely unsustainable as well as unsuitable in the context of loss and damage due to the unpredictability of extreme weather events, the incremental nature of slow-onset hazards and cascading and compounding climate risks.⁸¹ Addressing loss and damage in a way that advances climate justice requires wide-ranging remedies for the root causes of climate change, including its structural, temporal, collective and transboundary dimensions.⁸² A paradigm shift from contemporary economic and governance systems that threaten humanity's future towards a human rights economy that is fair, equitable, inclusive and sustainable, creates decent work opportunities, reduces inequalities and poverty and upholds human rights is needed. This includes a just transition grounded in such human rights as equality and non-discrimination, a clean, healthy and sustainable environment, decent work, social security, access to information, public participation and access to justice and remedies.⁸³ Policies and programmes cannot be based on a one-size-fits all approach. They need to be tailored to national circumstances within a global economy where businesses and investors respect the rule of law, including international human rights and labour law.

37. Building and strengthening rights-based universal social protection systems should be at the centre of a just transition. The right of everyone to social security is recognized in article 9 of the International Covenant on Economic, Social and Cultural Rights. Social protection systems should serve as a central vehicle for building resilience against climate impacts.⁸⁴ Research underscores the dual role of universal social protection systems as both a productive and a protective component of healthy and sustainable societies.⁸⁵ Social security, including health care, livelihood and income security and social services, complemented by broader investments aimed at creating economic opportunities, builds resilience. Universal social protection systems can also make it easier for States to reach people affected by catastrophic climate change events through embedded support mechanisms, including for cash transfers.

38. Social protection provides a foundation for equitable, long-term, sustainable development in a changing climate. Togo, for example, has highlighted its efforts to strengthen climate-resilient social protection and socioeconomic infrastructure.⁸⁶ In its decision on the outcome of the global stocktake, the Conference of the Parties urged the parties to substantially reduce the adverse effects of climate change on poverty eradication and livelihoods by promoting adaptive social protection measures.⁸⁷ Yet, currently, over half

⁷⁸ A/HRC/38/21; and OHCHR, "Key messages on human rights, climate change and migration".

⁷⁹ A/HRC/53/34, para. 71.

⁸⁰ Submission from IOM.

⁸¹ UNEP, *Adaptation Gap Report 2023*, p. 74.

⁸² A/HRC/48/78.

⁸³ OHCHR and ILO, "Key messages on human rights and a just transition" (2023).

⁸⁴ A/HRC/55/37, paras. 15–20.

⁸⁵ ILO, *World Social Protection Report 2020–22: Social Protection at the Crossroads – In Pursuit of a Better Future* (Geneva, 2021).

⁸⁶ Submission from Togo (in French).

⁸⁷ FCCC/PA/CMA/2023/16/Add.1, decision 1/CMA.5, para. 63.

of the world's population, most of whom inhabit the regions worst affected by climate change, lack social security.⁸⁸ The Human Rights Council has expressed concern at the inadequacy of social protection schemes and emphasized that efforts to realize the right to social security in the context of loss and damage should be inclusive and universally accessible.⁸⁹

39. Developed countries should support the efforts of developing countries to increase investment in social protection systems, both to make faster progress towards Sustainable Development Goal 1.3, on adopting nationally appropriate social protection systems for all, and to climate-proof development gains. The Special Rapporteur on extreme poverty and human rights has proposed that developed countries provide financing to make up for shortfalls, including due to climate shocks, in the social protection systems of developing countries, particularly relative to the areas most affected by climate change.⁹⁰ In its study on a global fund for social protection, the International Labour Organization (ILO) recommended making climate finance available for social protection systems and developing climate adaptation-oriented social protection systems through climate-related taxation.⁹¹

C. Mobilizing finance for loss and damage through a human rights- and equity-based approach

40. Financing needs to be scaled up urgently to avert and minimize loss and damage through climate change mitigation and adaptation and to address loss and damage through effective remedies, particularly compensation. While many uncertainties remain regarding financial needs for addressing loss and damage, estimates are in the range of hundreds of billions of dollars and are predicted to rise to trillions of dollars by 2050.⁹² Presently, the developing countries together, excluding China, are estimated to require at least \$2.4 trillion annually for climate finance, including for adaptation, mitigation and loss and damage,⁹³ the same amount as the global military expenditure in 2023.⁹⁴ While, in accordance with the Paris Agreement, the new collective quantified goal on climate finance being negotiated should take into account actual and projected financial needs for mitigation and adaptation, there are differences in views as to whether it should also include financing for addressing loss and damage. Regardless of the precise mechanisms, under human rights law, harm-reducing and remedial climate action must be adequately financed. Current provisions for climate finance fall far short of the current and projected needs and obligations. Analysis has shown that they also fell short of the goal of mobilizing \$100 billion per year in 2020 and 2021, to which developed countries had committed in 2009.⁹⁵

41. Funding to compensate for loss and damage should come primarily from developed countries and those most responsible for climate change, in line with the principles of equity and polluter pays and common but differentiated responsibilities and respective capabilities. Developed countries should also consider mobilizing financing through novel sources, such as equity-based taxation.

42. Human rights and equity-based progressive taxation, guided by the polluter pays principle, would target the fossil fuel industry and major greenhouse gas emitters in particular

⁸⁸ ILO, *World Social Protection Report 2020–22*.

⁸⁹ Human Rights Council resolution 53/6.

⁹⁰ A/HRC/47/36, para. 66.

⁹¹ Nicola Yeates and others, *A Global Fund for Social Protection: Lessons from the Diverse Experiences of Global Health, Agriculture and Climate Funds*, ILO Working Paper No. 97 (Geneva, ILO, 2023), p. 67.

⁹² UNEP, *Adaptation Gap Report 2023*, pp. XIX and 73.

⁹³ United Nations Framework Convention on Climate Change, "From vision to reality, getting the job done", speech delivered by the Executive Secretary of the United Nations Framework Convention on Climate Change, 2 February 2024.

⁹⁴ Nan Tian and others, "Trends in world military expenditure, 2023", SIPRI Fact Sheet (Stockholm International Peace Research Institute, 2024).

⁹⁵ Organisation for Economic Co-operation and Development, "Climate finance provided and mobilised by developed countries in 2013–2021: aggregate trends and opportunities for scaling up adaptation and mobilised private finance" (Paris, 2023); and Oxfam International, "Climate finance shadow report 2023: assessing the delivery of the \$100 billion commitment" (Oxford, 2023).

and be designed to protect those in situations of poverty and marginalization.⁹⁶ A range of taxes and levies, including progressive global windfall taxes, financial transaction taxes, wealth taxes, an effective price on carbon and the implementation of solidarity levies, for example on shipping, aviation and fossil fuel extraction, could be explored. All States should consider a global tax on the windfall profits of fossil fuel companies, redirecting some of those revenues to people suffering loss and damage. A tax of even a small percentage of such windfall profits, which in 2022 amounted to \$3 trillion, could generate, while varying in different years, hundreds of billions of dollars.⁹⁷ New taxes need to be accompanied by efforts to counter tax evasion and avoidance and to close tax havens. Given an estimated \$480 billion in lost tax revenue annually worldwide, such efforts could generate significant additional funds toward addressing loss and damage.⁹⁸ States should promote and advance regulations to ensure that businesses, especially transnational corporations, pay their fair share of taxes everywhere they operate, especially to boost tax revenues in climate-vulnerable developing countries. There have been calls for the establishment of a global climate reparations fund to complement the State-centric loss and damage fund, with a responsibility-based approach to quantifying and implementing the climate reparations owed by fossil fuel companies due to their operational and value-chain emissions, history of climate denial, disinformation and misinformation and their efforts to obstruct, undermine or delay climate action.

43. According to the International Monetary Fund (IMF), globally, explicit fossil fuel subsidies in 2022 amounted to \$1.3 trillion.⁹⁹ States should act immediately to equitably phase-out fossil fuel subsidies in accordance with their international obligations to mitigate conduct that poses serious and foreseeable risks to human rights. Savings could be redirected to climate action, including loss and damage.

44. Appropriate debt restructuring and cancellation could be included in efforts to address loss and damage.¹⁰⁰ Currently, 93 per cent of the countries most vulnerable to climate impacts are also in debt distress or at significant risk thereof,¹⁰¹ lacking the needed fiscal space to adequately respond to mounting loss and damage.¹⁰² The prevalence of loan-based rather than grant-based international climate financing further exacerbates debt crises. More than 50 per cent of recent debt increases in developing countries is linked to the funding of disaster recovery and reconstruction.¹⁰³ Equitable debt restructuring and debt cancellation, coupled with grant-based loss and damage funding, should be promoted to free up public funds in developing countries for rights-enhancing spending, including on climate action. A human rights-based multilateral debt relief mechanism to equitably restructure or cancel debt, particularly benefiting countries most vulnerable to climate change, could help to address loss and damage.

D. Advancing access to judicial remedy and accountability for loss and damage

45. Given the current inadequacies of efforts to address loss and damage, access to justice and effective remedy through judicial and non-judicial avenues is being sought increasingly

⁹⁶ A/77/226, para. 72; and David R. Boyd and Stephanie Keene, “Air travel and maritime shipping levies: making polluters pay for climate loss, damages and adaptation”, Policy Brief No. 2 of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (OHCHR, 2021).

⁹⁷ UNCTAD, “Taking responsibility: towards a fit-for-purpose loss and damage fund”, pp. 25 and 33.

⁹⁸ Tax Justice Network, *State of Tax Justice 2023* (2023), p. 21.

⁹⁹ Simon Black and others, “Fossil fuel subsidies data: 2023 update”, Working Paper No. 23/169 (Washington, D.C., IMF, 2023), p. 3.

¹⁰⁰ See David R. Boyd and Stephanie Keene, “Mobilizing trillions for the global South: the imperative of human rights-based climate finance”, Policy Brief No. 5 of the Special Rapporteur on human rights and the environment (OHCHR, 2023).

¹⁰¹ ActionAid International, “The vicious cycle: connections between the debt crisis and climate crisis” (2023), p. 2.

¹⁰² See UNCTAD, “Tackling debt and climate challenges in tandem: a policy agenda”, Policy Brief No. 104 (2022).

¹⁰³ UNCTAD, “Taking responsibility: towards a fit-for-purpose loss and damage fund”, p. 4.

by affected people and States. In its landmark advisory opinion on climate change, the International Tribunal for the Law of the Sea¹⁰⁴ emphasizes that climate change poses an existential threat to human rights and that complying with the Paris Agreement alone is not sufficient to satisfy international legal obligations relating to climate change. In its resolution 77/276 requesting an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, the General Assembly asked about the legal consequences for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, including with respect to peoples and individuals. The pending advisory opinion of the Inter-American Court of Human Rights is also expected to further clarify the scope of State obligations in that context, in both their individual and collective dimensions, in order to respond to the climate emergency within the framework of international human rights law, paying special attention to differentiated impacts on individuals from diverse regions and population groups, as well as on nature and human survival.¹⁰⁵

46. Access to justice, including through courts, is an essential component of holding States, businesses and others accountable for the continuing and compounding human rights impacts of climate change.¹⁰⁶ The United Nations High Commissioner for Human Rights has highlighted the important role of human rights-related climate litigation in that respect.¹⁰⁷ The analysis by UNEP of global climate litigation demonstrates that courts in diverse jurisdictions are increasingly identifying strong linkages between human rights and climate change, with the right to a clean, healthy and sustainable environment referenced in several cases.¹⁰⁸ Disproportionately affected groups are among those engaging in climate litigation. In *Verein Klimaseniorinnen Schweiz and Others v. Switzerland*, the Grand Chamber of the European Court of Human Rights ruled in favour of the applicants, which included a group of older women, holding that the right to respect for private and family life enshrined under article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) encompassed the right for individuals to effective protection by the State authorities from serious adverse effects of climate change on their life, health, well-being and quality of life.¹⁰⁹ In a recent report, the United Nations Development Programme anticipated a possible transformation in climate governance and accountability propelled by climate litigation.¹¹⁰

47. While often focused on prevention, climate litigation is being used increasingly to seek other remedies for harm from climate impacts. For instance, the Human Rights Committee recommended that Australia pay compensation for harms suffered by Torres Strait Islanders relating to its failure to protect their rights to culture and private life, family and home from climate change.¹¹¹ In other cases, petitioners have sought compensation through monetary damages related to defendants' alleged contributions to climate harms.¹¹² In a pending class action lawsuit in the United States, the plaintiffs are seeking punitive and compensatory damages from major fossil fuel companies because of worsened hurricane impacts.¹¹³

¹⁰⁴ See

https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf.

¹⁰⁵ Request for an advisory opinion on the climate emergency and human rights submitted to the Inter-American Court of Human Rights by Colombia and Chile, 9 January 2023, available at https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf.

¹⁰⁶ See [A/78/168](#).

¹⁰⁷ See OHCHR, "Human Rights: a Path for Solutions".

¹⁰⁸ UNEP, *Global Climate Litigation Report: 2023 Status Review* (Nairobi, 2023), p. 38.

¹⁰⁹ European Court of Human Rights, Application No. 53600/20, Judgment, 9 April 2024.

¹¹⁰ UNDP, "Loss and damage and climate litigation: how can the Maldives and other small island developing States (SIDS) position for greater climate action?" (New York, 2023).

¹¹¹ See *Billy et al. v. Australia* (CCPR/C/135/D/3624/2019).

¹¹² Joana Setzer and Catherine Higham, *Global Trends in Climate Change Litigation: 2023 Snapshot* (London, London School of Economics and Political Science, 2023), p. 4.

¹¹³ United States District Court, District of Puerto Rico, *Municipalities of Puerto Rico v. Exxon Mobil et al.*, case No. 3:22-cv-01550-SCC.

48. In *Sacchi et al. v Argentina*, the Committee on the Rights of the Child found that, when transboundary harm occurred, affected children's claims could, in principle, be brought under the jurisdiction of the State on whose territory emissions originated, if there was a causal link and the State exercised effective control over the source.¹¹⁴ In 2023, four inhabitants of the Indonesian island of Pari lodged a claim in a Swiss court requesting compensation from a Swiss cement company for climate-related damage occurring on the island.¹¹⁵ The National Human Rights Commission of the Philippines has called for a global inquiry into transboundary human rights issues and extraterritorial obligations with respect to loss and damage.¹¹⁶

49. To further enhance accountability, States should advance laws, regulations and policies that facilitate access to justice for climate change-related harms, hold businesses accountable for remedying loss and damage related to their activities and address extraterritorial impacts.

E. Climate justice and transitional justice approaches to loss and damage

50. The critical nature of the present situation calls for the urgent consideration of new, equity- and rights-based solutions to ensure that those suffering the brunt of climate-related harms have sufficient means to hold States and other duty bearers accountable for failing to meet their respective obligations and responsibilities to provide remedies for historical and ongoing climate injustice.¹¹⁷ Transitional justice approaches, referring to the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation,¹¹⁸ may be helpfully explored as part of a human rights- and equity-based approach to addressing loss and damage. Truth-seeking, criminal justice, reparation and guarantees of non-recurrence are key elements of transitional justice.¹¹⁹ Transitional justice approaches have already been considered in contexts beyond the traditional dimensions of conflict associated with the notion, including with regard to the legacies of colonialism and slavery, and could similarly be applied to address climate change-related harms.¹²⁰

51. Applying a transitional justice lens in this context could complement other equity-based approaches, capturing dimensions of historical, colonial and systemic injustices relating to the root causes of climate change, while providing a forward-looking preventive perspective to avoid future loss and damage.¹²¹ An approach to loss and damage informed by transitional justice could be used to ensure the non-recurrence of harm, document the causes, including the responsible actors, and the consequences, including the human rights impacts, of climate change, and advance justice and accountability informed by attribution science, common but differentiated responsibilities and specific human rights impacts, especially regarding disproportionately exposed groups. It could allow for the elaboration of climate reparations on a systemic and historic scale. Diverse forms of reparations, guarantees of non-recurrence and truth-seeking could also redress holistically the non-economic dimensions of loss and damage that other approaches may inadequately address, such as those relating to identity, a sense of place, the safeguarding of Indigenous Peoples' knowledge and ecosystem restoration.

52. The High Commissioner for Human Rights has called for the consideration of transitional justice approaches, for example, through an international commission of inquiry

¹¹⁴ [CRC/C/88/D/104/2019](#), para. 10.7.

¹¹⁵ Office of the Justice of the Peace of the Canton of Zug, Switzerland, *Asmania et al. v Holcim*, Complaint, 1 February 2023.

¹¹⁶ Submission from the Commission on Human Rights of the Philippines.

¹¹⁷ [A/77/549](#), para. 73. See also International Law Commission, draft articles on responsibility of States for internationally wrongful acts, with commentaries.

¹¹⁸ [S/2004/616](#), p. 4.

¹¹⁹ "Guidance note of the Secretary-General: transitional justice – a strategic tool for people, prevention and peace" (2023), p. 2.

¹²⁰ *Ibid.*, p. 18. See also Sonja Klinsky and Jasmina Brankovic, *The Global Climate Regime and Transitional Justice* (Routledge, 2018).

¹²¹ "Guidance note of the Secretary-General: transitional justice", p. 24. See also [A/76/180](#).

to investigate the causes of environmental damage, both as an act of memorialization and in order to issue practical recommendations to States.¹²² Further consideration could be given to the establishment of a group of experts or other mechanism on climate justice which could explore applying a transitional justice lens to climate change-related loss and damage as a means to advance truth-seeking, justice, reparation and guarantees of non-recurrence, with the aspiration of systemic transformation. Such work could also draw on climate attribution science to explore causation, contributions and responsibilities in present, future and historical dimensions in order to identify and advance measures to address human rights violations resulting from loss and damage. Such an approach could assist the global community to overcome some of the current challenges posed by climate change-related loss and damage.

V. Conclusions and recommendations

53. **Loss and damage from the adverse effects of climate change may include broad and increasing harms to the enjoyment of a wide range of human rights, such as the rights to life, health, housing, food, culture, education, an adequate standard of living, development, work, water and sanitation, self-determination and a clean, healthy and sustainable environment. Averting and minimizing loss and damage depend on measures to mitigate and adapt to climate change, thereby protecting the rights of present and future generations. In accordance with human rights law, States should ensure that people whose rights have been violated because of loss and damage from climate change have access to justice and effective remedy, which may encompass reparation, compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition.**

54. **All countries should seek to remedy, including through financing, the climate harms to which they contributed, consistent with their international human rights and other obligations. Businesses responsible for climate change should also contribute to remedies.**

55. **In light of the submissions received for the present study, international human rights law and my call to action for human rights, in which I emphasized the urgency to advance climate justice, I call upon States:**

(a) **To integrate human rights in laws, policies and assessments concerning loss and damage;**

(b) **To ensure that loss and damage responses are community-led, informed by the active, meaningful and safe participation of affected persons and take into account intersectionality and historical and structural discrimination;**

(c) **To ensure that loss and damage funds integrate gender-responsive, rights-based approaches to make funds directly accessible to those on the front lines of the climate crisis, including environmental human rights defenders.**

56. **Loss and damage assessments, to be accurate and comprehensive, should integrate human rights impacts and holistically value economic and non-economic dimensions. They should, inter alia, safeguard all human rights relating to lands, territories and resources impacted by loss and damage, including the right to self-determination and cultural rights. I call upon States to support rights-based mobility pathways as a form of remedy for loss and damage.**

57. **Efforts to avert, minimize and address loss and damage should advance a just transition towards a human rights economy that puts the rights of people and the well-being of the planet at the heart of economic and social decision-making.**

¹²² OHCHR, “Human Rights: a Path for Solutions” (2024), p. 14. See also <https://www.ohchr.org/en/statements-and-speeches/2024/05/well-past-hour-countries-align-climate-laws-human-rights>.

58. I therefore call upon States:

(a) To establish and strengthen universal rights-based social protection systems to increase people's resilience in responding to loss and damage. Developed countries should seek to support the investments of developing countries in strengthening social protection systems;

(b) To mobilize adequate resources for loss and damage financing, which could include, for instance, a fair and just phase-out and repurposing of fossil fuel subsidies, the introduction of taxes and levies, including windfall taxes and solidarity levies, such as on shipping, aviation and fossil fuel extraction, and the establishment of an effective price on carbon. Such efforts should be complemented by debt relief and debt restructuring for developing countries, especially those most in need and most affected by climate change;

(c) To support the efforts of rights holders to access remedies for loss and damage through judicial and non-judicial mechanisms. States should seek to advance legal, policy and normative measures to hold polluters accountable, including for misinformation, and support loss and damage-related claims, including, where applicable, extraterritorial climate litigation. In that context, States should also seek to ban advertising by fossil fuel companies.

59. I further encourage States to consider establishing a group of experts or other mechanism on climate justice to explore human rights- and equity-based approaches to climate harm, including loss and damage and associated human rights dimensions.