



Working Group on the issue of human rights and transnational corporations and other business enterprises

Information Note on
Climate Change and the Guiding Principles on Business and Human Rights

By Working Group on the issue of human rights and transnational corporations and other business enterprises

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I. Context

1. The United Nations Secretary-General has stated that ‘climate change is, quite simply, an existential threat for most life on the planet – including, and especially, the life of humankind’.¹ Climate change has disastrous consequences on weather patterns, ecosystems and biodiversity. These impacts directly and indirectly affect all human rights, including the rights to life, food, health and water. The impacts of climate change also exacerbate social and economic inequalities, disproportionately affecting people already in vulnerable situations including children, Indigenous Peoples and persons with disabilities.
2. Under the Paris Agreement on Climate Change adopted in December 2015, States have committed to (Article 2.1a): ‘*Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change*’. In light of scientific evidence, as reported by the International Panel on Climate Change, global warming needs to remain below 1.5°C and greenhouse gas emissions must decline by 43% by 2030.² Further, the United Nations has appointed a Special Rapporteur on Climate Change and Human Rights,³ and, in 2022, the United Nations General Assembly recognised ‘the right to a clean, healthy and sustainable environment’ as a human right.⁴
3. An increasing body of national and regional legislation, agreements, pledges and court decisions have acknowledged the obligations of States and other actors, including business enterprises, to take action to address the challenges of climate change and keep global warming below 1.5 °C. However, global greenhouse gas emissions keep increasing, and so do climate change related disasters, with impacts on hundreds of millions of people. This Note aims to clarify what actions should be taken by States and businesses in relation to embedding human rights considerations into climate change policies, processes and actions.

¹ See <https://www.un.org/sg/en/content/sg/statement/2023-05-16/secretary-generals-video-message-the-austrian-world-summit>.

² See <https://unfccc.int/process-and-meetings/the-paris-agreement>.

³ See <https://www.ohchr.org/en/specialprocedures/sr-climate-change#:~:text=of%20climate%20change-.The%20Special%20Rapporteur%20on%20the%20promotion%20and%20protection%20of%20human,rights%20implications%20of%20mitigation%20actions>.

⁴ See A/76/L.75.

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II. Climate Change and the Guiding Principles

4. The UN Guiding Principles on Business and Human Rights (Guiding Principles),⁵ adopted in 2011, do not explicitly mention climate change. However, two of the main international human rights law instruments to which the Guiding Principles specifically refer (in Guiding Principle 12), being the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, have been interpreted since 2011 in a manner consistent with international environmental and climate law.⁶ The International Labour Organization's Declaration on Fundamental Principles and Rights at Work (also referred to in Guiding Principle 12) now includes a 'safe and healthy working environment'. These developments are consistent with the Commentary to Guiding Principle 12 that 'business enterprises may need to consider additional standards [of human rights]' beyond those specifically given in the Guiding Principles.
5. Therefore, a decade after the adoption of the Guiding Principles, and especially in light of the legal, scientific and political developments summarised above, it is clear that States and business enterprises have obligations and responsibilities with respect to climate change, and with respect to the impacts of climate change on human rights. The Working Group considers that the Guiding Principles provide useful and valuable guidance to States and business enterprises to deal with the impacts of climate change on human rights. In addition, the impacts on rightsholders and not the risks to businesses should be at the centre of all climate change goals, policies, programmes and actions. Further, as Guiding Principle 14 indicates, the severity of the human rights impacts of business activities, such as in regard to climate change, will be judged by their scale, scope and irremediable character.
6. This Information Note explains how the Guiding Principles can assist States, business enterprises and other actors to integrate climate change actual and potential impacts with other human rights related impacts caused by, contributed to or linked with business activities. It also provides a range of non-exhaustive recommendations under each pillar of the Guiding Principles. This Note should be read as a complement to the growing body of guidance and regulations aimed at addressing climate change.

⁵ See https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

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III. Climate Change and the State Duty to Protect Human Rights

Regulate business conduct

7. The obligations of States under the Guiding Principles to protect against human rights impacts arising from business activities includes the duty to protect against foreseeable impacts related to climate change.
8. To fulfil these obligations, States should take measures, such as the following:
 - a. Adopt ambitious Nationally Determined Contributions (NDCs) to reduce national greenhouse gas emissions and to adapt to the impacts of climate change, as required by the Paris Agreement, and adopt domestic measures to implement the NDCs effectively and equitably;
 - b. Ensure that domestic and international measures to address climate change also take into account human rights-related impacts of climate change, including in assistance and export development credits;
 - c. Set out clear expectations for all business enterprises domiciled or operating in their territory and jurisdiction to take effective measures to combat climate change and related impacts on human rights;
 - d. Enact legislation that requires business enterprises to conduct human rights and environmental due diligence to identify and address human rights and environmental impacts, including climate change-related impacts, covering the entire value chain;
 - e. Require businesses to disclose in an accessible way the greenhouse gas emissions of their value chain, measures to reduce such emissions, and to address their contribution to climate and climate mitigation targets, throughout their operations;
 - f. Promote adaptation measures that minimize impacts of extreme events, such as droughts and floods, especially on populations in situations of poverty and vulnerability;
 - g. Ensure that the transition to a zero-carbon economy is just and rights-based; and
 - h. Adopt a range of regulations to discourage greenwashing and undue corporate influence in the political and regulatory sphere in this area, and to support the actions of human rights defenders.

Lead by example

9. State-owned enterprises and other State agencies dealing with pension funds, sovereign wealth funds, export credits, finance and development assistance, and related matters, should act fully in line with the Guiding Principles to prevent and mitigate against the human rights impacts of climate change.
10. States should ensure that all public procurement policies and processes, and contracts, include requirements for business enterprises to prove that they are taking effective action in relation to climate change-related impacts on human rights and the environment.

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11. In developing NDCs, States should undertake meaningful consultation with all stakeholders, and ensure free, prior and informed consent by Indigenous Peoples.

Review international agreements

12. States should review their existing trade and investment agreements, and investor-state dispute settlement mechanisms, to ensure that they do not constrain or restrict efforts to take effective action in relation to climate change-related impacts on human rights and the environment.
13. States should include Guiding Principles duties and responsibilities in all agreements on climate change, biodiversity and pollution.
14. States should cooperate with other States to build collaborative partnerships to act collectively and to assist other States, especially developing countries and small island countries, in relation to climate financing, technology transfer and capacity building to address climate change-related impacts on human rights and the environment.
15. States should take action on climate change-related impacts on human rights and the environment on the basis of justice and equity, in accordance with their common but differentiated responsibilities and respective capabilities.

IV. Climate Change and Corporate Responsibility to Respect Human Rights

Take responsibility for climate change-related impacts

16. The responsibilities of business enterprises under the Guiding Principles to respect human rights and not to cause, contribute to or be directly linked to human rights impacts arising from business activities, include the responsibility to act in regard to actual and potential impacts related to climate change.
17. To fulfil these responsibilities, business enterprises should take measures, such as the following:
 - a. Integrate climate change considerations into their policies, processes, governance structures and decisions to identify, prevent, mitigate and account for adverse human rights and environmental impacts, and do so throughout all their operations;
 - b. Develop and publish policies and action plans in relation to all their actual and potential climate change-related impacts on human rights and the environment;
 - c. Integrate climate change considerations in all aspects of the human rights due diligence process throughout their operations;

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- d. Identify all their Scope 1, 2 and 3 greenhouse gas emissions throughout their operations, with such identification being science-based, verifiable and informed by input from experts;
- e. Conduct effective and meaningful consultation with all relevant stakeholders, including ensuring free, prior and informed consent by Indigenous Peoples, on their actual and potential climate change-related impacts on human rights and the environment;
- f. Take urgent remedial action, including ceasing any climate change-related human rights impacts that they cause or contribute to; and
- g. Use their leverage over their business relationships to prevent, reduce or mitigate any climate change-related human rights impacts that they contributed to or are directly linked to through operations, products or services.

Act responsibly

18. Businesses enterprises should act responsibly and not promote unsustainable consumption, undertake greenwashing or seek to have undue corporate influence in the political and regulatory sphere in this area.
19. Business enterprises should:
 - a. Link incentives for directors and executives with positive performance in combating climate change;
 - b. Phase out both the use of fossil fuels and the production of greenhouse gas emissions, avoid contributing to deforestation, and not use carbon offsets;
 - c. Adopt procurement policies and practices which consider climate change-related impacts on human rights and the environment;
 - d. Ensure their value chains and practices are in line with the goal of achieving a just transition to a zero-carbon economy;
 - e. Treat environmental human rights defenders and climate activists as critical partners, and ensure that the direct or indirect actions by businesses do not harm them.

Finance and invest responsibly

20. International, national and regional financial institutions and other investors should move away from financing fossil fuel projects. Both personal and institutional investors should integrate consideration of climate change-related impacts on human rights and the environment into their investment decision making.
21. Business should facilitate access to information that is sufficient to evaluate the adequacy of their response to climate change-related human rights harms and commit to transparency in the communication of scientific findings, as well as ensure meaningful stakeholder consultation.

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Take collective action

22. Business enterprises should take collective action to mitigate climate change-related impacts on human rights and the environment and act to contribute to achieving a just transition to a zero-carbon economy without offsetting. Such steps may include developing sector-specific good practices, building capacity (including of small and medium size enterprises) and establishing industry coalitions to pursue positive climate advocacy.

V. Climate Change and Access to Remedy

Strengthen accountability

23. The obligations and responsibilities of States and business enterprises under the Guiding Principles includes the obligation and responsibility to act to provide effective access to remedy in regard to human rights and environmental impacts related to climate change.
24. To fulfil these obligations and responsibilities, States and business enterprises should take measures such as the following:
 - a. Provide for effective access to remedies for rightsholders in relation to all climate change-related impacts on human rights and the environment;
 - b. Develop appropriate and effective remediation for human rights impacts of climate change, including for past climate change impacts and for the protection of the rights of future generations;
 - c. Ensure that all forms of access to remedies are responsive to multiple vulnerabilities, intersectional discriminations and marginalization experienced by individuals and communities such as children, women, Indigenous Peoples, and persons with disabilities; and,
 - d. Work together to enable a strong culture of accountability at the national, regional and international levels, for causing or contributing to climate change.

Appropriate mechanisms

25. States should ensure that all judicial and non-judicial mechanisms have the powers to deal appropriately with claims based on human rights impacts of climate change, remove all obstacles for bringing such claims, and provide effective remedies to victims.
26. Business enterprises should ensure that all non-judicial mechanisms, including operational grievance mechanisms, have the powers to deal appropriately with claims based on human rights impacts of climate change, remove all obstacles for bringing such claims, and provide effective remedies to victims.

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Remediation

27. Remediation should be focused on effective remedies for the victims.
28. Preventive remedies such as injunctions against State and business projects with human rights-related climate change risks should be developed and implemented.
29. Business enterprises should participate in good faith, and not undermine, all proceedings before legal and non-legal tribunals that promote accountability for climate change-related impacts on human rights and the environment.
30. Industry and business associations should consider establishing sector-specific or industry-wide operational grievance mechanisms to deal with complaints about climate change-related impacts on human rights and the environment.

Protection

31. States and business enterprises should ensure that climate defenders, which are often remedy enablers, face no threats, harassment or reprisals for their legitimate work to protect the environment and planet.