

# PLACING **HUMAN RIGHTS** AT THE CENTER OF U.S. GLOBAL CLIMATE CHANGE POLICY

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## SUMMARY

The Biden administration has identified addressing climate change and putting human rights at the center of its foreign policy as top priorities. Thus far, however, the administration has not connected these two agendas, and its human rights and climate change positions remain isolated from one another.

For example, the U.S. does not appear to be working to connect discussions on climate change at the UN Human Rights Council, in which it participates, to international climate change negotiations under the UN Framework Convention on Climate Change (UNFCCC).

Climate change is one of the most significant threats to people and the planet. The consequences of climate alteration threaten the lives and livelihoods of communities worldwide and pose growing threats to democracy. Addressing climate change demands a human rights-based approach that protects the rights of people and communities most vulnerable to the impacts of climate alteration.

Through its seat on the Human Rights Council, the U.S. has a significant opportunity to play a leadership role in integrating a human rights-based approach to climate action in the next two years of the council's mandate. Furthermore, the upcoming UNFCCC COP27 in Egypt offers specific opportunities for the Biden administration to fulfill its promise of bringing human rights to the center of foreign policy. In this brief, we provide specific recommendations for the U.S. to:

- Link the United States government's work at the UNFCCC to its work at the UN Human Rights Council
- Integrate human rights concerns into the Paris Agreement Global Stocktake
- Operationalize a human rights-based approach in the Action for Climate Empowerment (ACE) Action Plan
- Strengthen civil society participation at UNFCCC processes
- Deliver on loss and damage at COP27.



# INTRODUCTION

When President Biden was elected, he committed to rejoin the Paris Agreement and bring democracy and human rights to the center of United States foreign policy. As promised, President Biden's administration has rejoined the Paris Agreement and prioritized democracy and human rights issues in several aspects of its foreign policy. The Biden administration has also recognized the links between the environment and human rights, advocating for stronger protections for environmental and human rights defenders.

However, when it comes to UNFCCC negotiations, these two issues – climate change and the promotion of democracy and human rights – continue to operate in bureaucratic silos. This has undermined the effectiveness of both agendas.

When the world is experiencing a dangerous regression in human rights, closing civic space, and growing impacts of the climate crisis, it is even more important that human rights become a central part of the United States' international climate change agenda.

This paper sets out six specific areas for action by the U.S. at the UN Human Rights Council and within the UN Framework Convention on Climate Change (UNFCCC) process. The 27th Conference of Parties (COP27) of the UNFCCC in Egypt in November will be a critical opportunity for U.S. action and leadership on these issues.

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## HOW ARE HUMAN RIGHTS CURRENTLY TREATED WITHIN THE UNFCCC PROCESS?

The adoption of the Paris Agreement in 2015 was the first time governments recognized in a climate change treaty the relevance of human rights in addressing climate change. In the preamble of the Paris Agreement, parties are called upon to respect, promote, and consider their respective obligations on human rights when taking action to address climate change. Since then, some decisions about work streams under the UNFCCC, including the Gender Action Plan<sup>1</sup>, the Local Communities and Indigenous Peoples Platform<sup>2</sup>, and the Paris Committee on Capacity Building, have included human rights considerations<sup>3</sup>.

However, human rights are not a central priority of the UNFCCC negotiations and continue to be sidelined, directly impacting the level of ambition of the negotiations and also the inclusivity and diversity of the process.

At COP26, parties adopted the Glasgow Work Program on Action for Climate Empowerment (ACE) that implements Article 12 of the Paris Agreement and Article 6 of the Framework Convention on Climate Change. Article 12 of the Paris Agreement commits parties to enhance climate change education, training, public awareness, public participation, and public access to information to increase climate action. Three of the six elements of ACE are internationally recognized human rights (access to information, public participation, and education). However, despite civil society advocacy and submissions by several UN agencies to include a human rights-based approach in the Glasgow Work Program, parties adopted a text with no mention of human rights<sup>4</sup>.

The commitment to human rights is also not currently reflected in the U.S. posture at the UNFCCC negotiations. At COP26 in Glasgow, the U.S. did not oppose the petition by Saudi Arabia to delete the specific reference to a human rights approach in the text of the Glasgow Action for Climate Empowerment (ACE). At the same meeting, the U.S. opposed the petition of developing countries to create a finance facility for loss and damage<sup>5</sup>, a key human rights issue. Millions of people are already losing their homes and facing growing human rights violations due to climate change impacts, especially those in poor countries that have contributed the least to the climate crisis yet experience the direst consequences, while developed countries such as the U.S. continue to oppose action to meaningfully address loss and damage.

While the U.S. has not sufficiently linked its climate change and human rights positions within the UNFCCC process, it has taken some important steps to strengthen the link between human rights and environmental protection. This year, the U.S. supported the recognition of the resolution on the right to a healthy environment which was adopted by the UN General Assembly in July<sup>6</sup>. The U.S. stated that it regretted that the resolution did not include language on the protection of human rights defenders, a possible sign of the political commitment of this administration to linking environmental and human rights protections<sup>7</sup>.

## WHAT WOULD A HUMAN RIGHTS-BASED APPROACH TO CLIMATE CHANGE LOOK LIKE?

A human rights approach to climate policy puts people and the impacts of the climate crisis on their rights at the center of discussion. Despite the growing impacts of climate change on communities worldwide, some stakeholders are trying to delay action and promote doubt about the impacts of the crisis and what it means for people and the planet<sup>8</sup>. This has delayed climate action and has undermined the rights of millions of people who will suffer as a result of climate change. Climate policy built on human rights must explicitly address who is affected by climate change, how, and why.

According to the United Nations High Commissioner for Human Rights (OHCHR), a human rights-based approach to policymaking has at least three elements<sup>9</sup>. First, the main objective is to fulfill human rights. Second, the policymaking process identifies rights-holders and their entitlements and duty-bearers and their obligations. The rights-based approach should strengthen the capacity of rights-holders to demand their rights and of duty-bearers to meet their obligations. Lastly, international human rights principles such as universality, indivisibility, equality and non-discrimination, participation, and accountability should guide all policies.

Under this approach, measures taken to adapt to or mitigate climate change but that will likely undermine human rights can be reviewed, or effective safeguards can be included to prevent or minimize the impacts of such measures

on people's rights, or effectively provide redress when violations are committed. There is a history of mechanisms and policies adopted to confront the climate crisis taken without the participation and consultation of communities that ultimately resulted in grave human rights violations. For example, the Clean Development Mechanism established under the Kyoto protocol for countries to trade carbon offsets has financed many projects that have caused human rights violations<sup>10</sup>. The lack of a strong human rights framework under that mechanism allowed for the financing of projects in situations where gross human rights violations were taking place<sup>11</sup>. In other cases, we have seen Indigenous communities forcibly removed from their territories in the name of conservation<sup>12</sup>.

The latest IPCC reports from early 2022 have clearly articulated that humanity is at a tipping point and is running out of time to avert the worst impacts of climate change<sup>13</sup>. They also provide information on how urgent change needs to occur. Climate resilient development requires policies with a rights-based approach that allow meaningful participation of the most vulnerable groups and enable them to access resources to adapt to a changing climate.

Placing human rights at the center of international climate policy means allowing broad participation of civil society and other stakeholders in decision-making spaces. It also means increasing the ambition of climate action to achieve the objectives of

the Paris Agreement and prevent the worst impacts of the climate crisis, and therefore, prevent further human rights violations. Finally, it means ensuring that policies developed to respond to the climate crisis do not damage peoples' and communities' rights. A special effort should be made to

ensure that vulnerable groups, such as women and girls, Indigenous peoples, and people with disabilities, can also participate in the development of climate policy and that their specific needs and rights are taken into account when implementing such policies.

## WHY SHOULD THE U.S. ADOPT A HUMAN RIGHTS APPROACH TO INTERNATIONAL CLIMATE POLICY?

Adopting a human rights approach to international climate policy will help the Biden administration achieve its climate goals. This includes achieving our GHG emission reduction targets, securing supply chains of critical minerals needed for the green energy transition, promoting multilateral cooperation among like-minded governments, and preparing to adapt to climate risks that threaten U.S. national security. The failure to include a human rights approach in its international response to climate change only threatens U.S. leadership and effectiveness in this area. Climate action that does not respect and protect human rights would only be repeating the mistakes of the past and causing further human rights violations and instability around the world that will affect U.S. interests.

Climate change is a threat to democracy and, as such, should be addressed through a human rights lens. The extreme conditions the world will face due to a changing climate

and the lack of an efficient and timely policy response are creating feelings of deep insecurity and uncertainty, threatening our democracy<sup>14</sup>. Last year, President Biden convened a global summit for democracy, but climate change was not included on the agenda. If the U.S. wishes to be a leader in strengthening democracy, it should recognize the threat to democracy posed by climate change and adopt a response centered on human rights.

Through its seat on the Human Rights Council, the U.S. has a real opportunity to play a leadership role in integrating a human rights approach to climate action in the next two years of its mandate. Furthermore, the upcoming UNFCCC COP27 in Egypt offers specific opportunities for the Biden administration to fulfill its promise of bringing human rights to the center of international policy.

## HOW CAN THE U.S. INCLUDE A HUMAN RIGHTS APPROACH IN ITS INTERNATIONAL CLIMATE CHANGE POLICY POSITIONS?

### 1

#### Link the USG's work at the UNFCCC with its work at the UN Human Rights Council

The UN Human Rights Council (HRC) has become a key international forum to strengthen the links between climate change and human rights and to provide guidance to governments on how to fulfill their human rights obligations when developing their climate policies. The Council has recognized that climate change poses an existential threat to people's and communities' rights and that countries need to better integrate human rights concerns into policymaking, legislation, and plans addressing climate change<sup>15</sup>. Several special procedures of the HRC have presented reports on climate change to the Council that further elaborate on the implications of climate change for human rights and provide specific recommendations for States<sup>16</sup>.

In its 48th Session, the Human Rights Council adopted by consensus Resolution 48/14, creating the mandate of a Special Rapporteur on the promotion and protection of human rights in the context of climate change<sup>17</sup>. The resolution was welcomed by civil society and Indigenous organizations that see the new mandate as a key tool to advance climate justice. The new mandate has been tasked with advancing global efforts to address the negative human rights impacts of climate change, promote rights-based climate action, and make recommendations on how governments can better promote

and protect human rights in the design and implementation of climate action. In March 2022, Ian Fry was appointed as the first Special Rapporteur for a period of three years<sup>18</sup>.

Despite the growing consensus reflected at the HRC that any response to climate change should have human rights at its core, at the UNFCCC, human rights continue to be treated as a side topic or a cross-cutting issue<sup>19</sup> that doesn't allow for human rights considerations to take a central stage in the discussions. To overcome this separation between the UNFCCC negotiations and the developments of the Human Rights Council, in 2015, a group of States led by Costa Rica launched the Geneva Pledge for Human Rights in Climate Action to facilitate the sharing of best practices and knowledge between human rights and climate experts at a national level. Currently, the Geneva Pledge has 34 signatories who have pledged to enable meaningful collaboration between their delegates in these two processes to increase understanding of how human rights obligations can inform better climate action<sup>20</sup>.

In January 2022, the United States rejoined the Human Rights Council. The U.S. administration did not identify climate change as one of its priorities for the Council<sup>21</sup>. The United States should, however, make climate change a

policy priority for its period at the Council and actively contribute to strengthening the integration between the climate change and human rights agendas and promoting coordination between the HRC and other UN bodies where climate change is discussed, especially the UNFCCC. As both human rights and climate change have been defined as priorities for the Biden administration, the promotion of policy coherence between the resolutions adopted at the HRC and the ongoing negotiations at the UNFCCC are key for the U.S. to improve the effectiveness of its international climate change policy.

As a new member of the HRC, the United States could play a key role in improving

communication between the HRC and the UNFCCC and push for the effective use of climate change resolutions and reports to inform and guide discussions under the UNFCCC. The State Department should make sure that the U.S. negotiation team for COP27 is briefed on those discussions, that there's coordination between climate and human rights diplomats that promotes policy coherence, and that the resolutions of the HRC are effectively reflected in the positions of the U.S. at the UNFCCC negotiations. The U.S. could also sign the Geneva Pledge and work in coordination with like-minded States to jointly promote cooperation and coordination on issues of climate change and human rights between the HRC and the UNFCCC.

## 2

### **Integrating Human Rights concerns into the Paris Agreement Global Stocktake**

The Global Stocktake of the Paris Agreement (GST) is a process for “taking stock” of the implementation of the Paris Agreement with the aim of assessing the world’s collective progress towards achieving the purpose of the agreement and its long-term goals. The process started in June 2022 during the Bonn Climate Change Conference, the 56th session of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation (SB 56) and will continue until COP28 in 2023.

The Global Stocktake is the key tool in the Paris Agreement to ensure that actions to implement the agreement are ambitious enough to achieve the objectives set in the treaty. The future of the Paris Agreement

depends on the effectiveness of the GST and how it can guide parties to adopt enhanced ambitious commitments that prevent the worst impacts of climate change and protect human rights. To be effective, the GST must explicitly assess how Parties’ National Determined Contributions (NDCs) and all other climate actions have respected, protected, and promoted human rights, including the rights of Indigenous peoples and the rights of environmental defenders to be able to better inform future NDCs, adaptation plans, and all climate action. All parties to the Paris Agreement have human rights obligations, and human rights-based climate action is the most effective climate action, as confirmed by the IPCC in its most recent report<sup>22</sup>.



During the Global Stocktake, parties should include considerations on the human rights implications of the three thematic areas of mitigation, adaptation, and means of implementation and support, and how a human rights approach to each of those areas ensures a more successful outcome.

For example, a rights-based approach to adaptation is less likely to lead to maladaptation and enables discussions on loss and damage to consider non-economic losses, taking into account the voices and knowledge of Indigenous peoples and other specially protected populations. Maladaptation is understood as a situation where adaptation projects end up making people more, rather than less, vulnerable to climate change<sup>23</sup>. Adaptation projects that do not put people and their rights, especially those more vulnerable, at their center are very likely to reinforce existing vulnerabilities or even create new vulnerabilities for the population, providing unsustainable change or aggravating the human rights situation of a community<sup>24</sup>.

Regarding mitigation and a fossil fuel phase-out, it is important to assess the impacts of both the emissions gap, which is the difference

between where emissions are predicted to be in 2030 and where they should be to avert the worst impacts of climate change, and fossil fuel production on human rights. The latest Synthesis report by the United Nations Framework Convention on Climate Change (UNFCCC) measuring the climate commitments of parties to the Paris Agreement found that greenhouse gas emissions are projected to decrease by 12 percent by 2030<sup>25</sup>. Scientists say that limiting warming to 1.5 C requires a global 45 percent reduction of CO2 emissions by 2030. In 2021, the emissions gap report by the UN Environment Program specified that the U.S. was one of ten G20 countries not on track to achieve its emissions target<sup>26</sup>.

Fossil fuels are the main source of greenhouse gases and the main cause of climate change<sup>27</sup>. By continuing to rely on fossil fuel exploitation, governments are fueling climate change and further endangering human rights. Fossil fuel projects also directly cause human rights violations related to land grabs, human health impacts, and massive contamination of air and water resources, and therefore undermine the recently universally recognized right to a clean, healthy, and sustainable environment<sup>28</sup>.



## **U.S. Climate Leadership begins at home: The case of the Line 3 pipeline<sup>29</sup>**

The Biden administration has repeatedly stated that the credibility of U.S. leadership abroad depends on how it responds to challenges at home. During the early stages of the Biden administration, its domestic climate policy did not necessarily align with its foreign climate policy. For example, Line 3 is a pipeline expansion that will bring 760,000 barrels of tar sands crude oil per day from Alberta, Canada, to Superior, Wisconsin. Most of the pipeline route in the United States runs through northern Minnesota, including the treaty territory of multiple Anishinaabe tribes who hold the rights to hunt, fish, and harvest wild rice. Enbridge, a Canadian pipeline company responsible for the largest inland oil spill in the United States, is behind the project. The pipeline corridor also runs through untouched wetlands and the Mississippi River headwaters to the shore of Lake Superior.

The Line 3 pipeline will have profound impacts on the climate. Based on the amount of carbon in the oil that Line 3 would move, water protectors calculate that building it is equivalent to building 50 new coal-fired power plants. Tar sands are among the dirtiest, costliest, and most carbon-intensive fuel sources on the planet. A gallon of gasoline made from tar sands produces about 15 percent more carbon dioxide emissions than one made from conventional oil. Tar sands also have major impacts on water supplies and produce toxic pollution. The Line 3 pipeline could continue to transport harmful tar sands oil into 2070, significantly beyond the date when countries should, and many have pledged to, achieve carbon neutrality.

Water protectors opposing Line 3 engaged in marches, demonstrations, sit-ins, hunger strikes, and organized artistic performances as part of their protests against the project. In response, more than 900 water protectors were arrested, and many of them are still facing criminal charges. Enbridge provided financial support to the local police via an escrow account. Indigenous water protectors have also faced excessive use of force, extensive surveillance, and harassment as the company engaged in corporate counterinsurgency strategies against them.

A photograph of a protest in a forest. A large, weathered wooden banner is stretched across the foreground, featuring the text "if the wild rice and trees and water are gone will you still love oil?" in a bold, black, sans-serif font. The banner is slightly torn and has some leaves stuck to it. In the background, a dense forest of tall, thin trees is visible. A blue tarp is draped over the top of the banner. Below the banner, parts of other protesters and a red tent are visible.

**if the wild rice and trees and water are gone  
will you still love oil?**

Photo by: Audrey Schreiber





Photo by: Ben Hoffman

During the Global Stocktake technical dialogue conducted in June 2022, there was not a specific space to discuss fossil fuel transition. This must be redressed. When discussing mitigation and fossil fuels, parties must also address the links between the growing repression and violence against environmental defenders and fossil fuel projects.

The Global Stocktake must also discuss how to ensure that actions to accelerate the energy transition and reduce emissions do not infringe on human rights. Extracting the so-called green minerals required to develop wind and solar energy could threaten the rights and the environment of frontline

communities, including Indigenous ones, living near extraction sites<sup>30</sup>. The transition to green energy should be based on a strong human rights framework that protects the rights of communities, prevents contamination and degradation of ecosystems, and does not repeat the mistakes of the fossil fuel industry. Parties must not allow the transition to green energies to promote a new wave of human rights violations.

The Global Stocktake outcomes should provide guidance on how to develop mitigation measures that respect human rights, especially of those more vulnerable such as Indigenous and local communities.



## **Lack of information, consultation, and silencing of Indigenous voices for a coal concession in Thailand**

In the Omkoi district of Thailand, 99 Thuwanon Co. Ltd., a coal mining company, applied for a concession in 2000. In 2011 the company hired a consultant to produce an Environmental Impact Assessment (EIA) that was presented to local authorities. The company never consulted with the villagers who belong to the Kabeudin community, a Karen Indigenous community. The community continued to farm on their lands without knowing about the threat of the coal mine. In 2019, the company announced that it was starting its coal operations and told the villagers to leave their land. This was the first time the community heard about the project. When community members reviewed the EIA from 2011, they learned the company had gotten approval without sharing the EIA with the community or developing a consultation process with the villagers, in violation of the law. The flawed EIA is now a decade old, contains misleading or incorrect information, and was completed without community input. The community is calling for a new EIA to address these problems. Many of those who have spoken up have faced harassment and criminalization<sup>31</sup>.







Photo by: Chalefun Ditphudee

The Global Stocktake should also assess how access to information and participation are being implemented to achieve the objectives of the Paris Agreement. Having access to comprehensive and understandable information is critical in enabling meaningful participation, which must take place prior to activities that will impact people's lives and the environment. Not doing so results in harm or allows projects to go forward with incorrect or incomplete information and understanding, as seen in the example above.

The Paris Agreement specifically recognizes the importance of access to information and public participation to achieve the objectives of the agreement<sup>32</sup>. The internationally recognized human rights principle that all people have a right to participate in and have access to

information relating to decision-making processes that affect their lives and well-being is key to ensuring that everyone has a voice in climate responses and that no segment of society is left behind. As the Sixth Assessment Report of the Intergovernmental Panel on Climate Change stated, solving the climate crisis is not only a matter of what needs to be done but also how it should be done: Climate action should be participatory and inclusive of the most vulnerable populations<sup>33</sup>. The GST is a key process for parties to assess participation, inclusion, and transparency in the framework of climate action, e.g., in the process of designing National Determined Contributions (NDCs) and National Adaptation Plans (NAPs) and considering challenges to realizing rights while increasing ambition.

## Recommendations to the U.S. Government for the GST process:

As one of the co-facilitators of the Global Stocktake, the United States has a privileged position to ensure that the process is developed through a human rights approach. The U.S. should work towards a GST that puts people and the impacts of climate change on their rights at the center of discussion, especially those in conditions of vulnerability and exclusion who are the most affected by the climate crisis.

As co-facilitator, the United States should ensure that human rights experts, Indigenous peoples, environmental and human rights defenders, and representatives of communities on the frontlines of the climate crisis can participate in the technical dialogue and roundtables of the GST and facilitate and lead some of the discussions.

During the first technical GST dialogue in June 2022, human rights were addressed as one of the cross-cutting issues. Unfortunately, the human rights conversation got lost and was not effectively included in each of the round tables developed during the GST dialogue. Human rights experts, including frontline and Indigenous leaders, should be able to provide direct input to the co-facilitators and the secretariat to develop the agenda and draft the questions for future GST dialogues and discussion tables.

The United States should ensure that during the development of the Global Stocktake, delegations effectively analyze how their countries are fulfilling their human rights

obligations when addressing climate change. The United States representatives at the GST should include Indigenous peoples and human rights experts.

Additionally, the United States should use its leverage in this process to engage with other parties in the human rights conversation. The GST, through its dialogue process, offers a space for peer pressure among parties to raise the ambition of climate action, a key component of the model of the Paris Agreement<sup>34</sup>. The United States should also offer ideas, good practices, and incentives for other parties to respect their human rights obligations.

The Paris Agreement rulebook stated that the Global Stocktake would be a crucial tool for enhancing collective ambition toward achieving the agreement's goals. Therefore, the findings of the technical assessment should provide specific guidance to parties on what is missing and how to enhance ambition. As the outcomes of the Stocktake will focus on a collective assessment instead of looking at the individual behavior of each party, human rights as a common language among parties can provide a meeting point for the different visions. The U.S. should work to achieve a technical summary as a result of the GST that includes specific guidance on how parties should increase their ambition to fulfill their human rights obligations and how to develop the next round of NDCs by ensuring the promotion, protection, and respect of human rights.

# 3

## Operationalize a human rights-based approach in the ACE Action Plan

Action for Climate Empowerment (ACE) is the work stream under the UNFCCC related to public participation; public access to information, education, training, public awareness; and international cooperation. Three of these six elements—the right to access information, the right to participation, and the right to environmental education—are internationally-recognized human rights.

ACE has the potential to catalyze participatory and inclusive climate action that prioritizes the needs of those most excluded who are bearing the biggest impacts and costs of the climate crisis. However, at COP26, parties adopted the Glasgow Work Program on ACE but failed to include a human rights approach or even mention human rights in the text. Although human rights was initially included as one of the guiding principles for the new work program, it was removed during the final hours of the negotiations.

This was truly a missed opportunity to advance inclusive climate action and enhance the full potential of multilateralism by promoting coordination between ACE and other international frameworks that have developed and strengthened the right to access to information, the right to participation, and the right to education<sup>35</sup>.

At COP26, 14 parties took to the floor during the Subsidiary Body for Implementation (SBI) plenary to apologize for the failure to include human rights in the new Glasgow Work Program. The Glasgow Work Program mandated parties to develop an action plan to be adopted at COP27, which represents a new opportunity for parties to correct the failures of the Glasgow Work Program and adopt an action plan developed through a human rights approach that promotes the potential of ACE to deliver participatory and inclusive climate action.

At the beginning of the ACE negotiation during the 56th session of the SBI in June 2022 in Bonn, several parties, including the United States, highlighted the importance of a rights-based approach for the ACE action plan that promotes and protects the rights of women and Indigenous peoples. Despite the statements made by parties at the negotiation, the first informal note prepared by the co-facilitators at the end of the Bonn climate conference is still very weak on human rights language<sup>36</sup>. There is a real opportunity for parties to deliver a strong ACE action plan at COP27 that effectively reflects the human rights approach parties highlighted at Bonn.

## Recognizing and protecting the rights to access to information, access to participation, and access to education

As noted above, three out of the six elements of ACE are internationally recognized human rights. The right to environmental education was recognized under the Convention on the Rights of the Child, and procedural rights, including access to information and public participation in environmental matters, are a key component of international human rights law and international environmental law, including Principle 10 of the 1992 Rio Declaration and the Guidelines for the Development of National Legislation on Access to Information, Public Participation and Access to Justice in Environmental Matters<sup>37</sup>. Also, The Aarhus Convention<sup>38</sup> and the Escazú Agreement<sup>39</sup> reaffirm these rights in Europe, Latin America, and the Caribbean. A human rights approach for the ACE action plan requires that parties effectively recognize

those rights and operationalize them in the context of climate action by including activities that address barriers and enhance the implementation of these rights both at the national and international levels.

The Glasgow Work Program included policy coherence as one of the four priority thematic areas and encouraged the UNFCCC secretariat and other UN entities to strengthen their collaboration to support parties in the implementation of the ACE agenda. The ACE Action Plan adopted at COP27 should further develop the importance of policy coherence and promote coordination and sharing of information and experiences between the UNFCCC secretariat and other UN Forums and entities where those rights are being discussed and developed.

## Addressing the situation of environmental defenders as part of the ACE action plan

As the work stream on participation and access to information, ACE must not overlook that worldwide, there are still many restrictions for people to exercise these rights, especially for those on the frontlines of the climate crisis. Environmental and human rights defenders working for climate justice are increasingly targeted with violence, harassment, and criminalization. The UN Special Rapporteur on Freedom of Assembly and Association has documented such tactics in a report presented last year to the UN General Assembly<sup>40</sup>. As the rapporteur states in his report, environmental

and human rights defenders, including Indigenous peoples and civil society activists, have been working for decades to protect their lands, build pressure towards meaningful climate action, and advocate for the protection of the right to a healthy environment for all. Their contribution to climate action is invaluable, and yet their role is still not recognized, and their rights continue to be violated.

The context of violence and repression that environmental human rights defenders



are living is especially true for Indigenous defenders, including women around the world. Most climate-damaging projects are located in Indigenous lands or cross through Indigenous territories, where the pattern of failures in the consultation processes, repression, and silencing of opposition movements continues and endangers the lives and livelihoods of already vulnerable populations. As the climate crisis worsens, so does the violence against those protecting our environment<sup>41</sup>.

International multilateral environmental agreements have already recognized the role of environmental defenders in the context of access to information and participation. In 2018, the regional agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin America and the Caribbean, known as the Escazú Agreement, committed Parties to guarantee a "safe and enabling environment for persons, groups, and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction, and insecurity"<sup>42</sup>. The agreement also commits Parties to recognize, protect and promote the rights of environmental defenders and to take measures to prevent, investigate and punish attacks against them.

More recently, Parties to the Aarhus Convention on access to information, public participation in decision-making, and access to justice in environmental issues in the EU adopted a decision recognizing that environmental defenders are those who exercise their rights under the Convention, calling on Parties to review their legal frameworks to take measures to protect environmental defenders in accordance with

the Convention<sup>43</sup>. The decision also created a new mechanism in the form of an independent Special Rapporteur on environmental defenders to provide a rapid response to the violation of the rights of environmental defenders.

Important steps have been taken in the context of the Human Rights Council as well. In 2019, the Human Rights Council adopted its first resolution recognizing the contributions of environmental human rights defenders. The resolution specifically calls on parties "*To adopt and implement strong and effective laws or policies ensuring, among other things, the right to take part in the conduct of public affairs and in cultural life, the freedom to seek, receive and impart information and equal access to justice, including to an effective remedy, in the field of the environment*"<sup>44</sup>.

In various international fora, the U.S. has stated that the protection of environmental and human rights defenders is a priority for the country, and as such, it interlinks with the climate and environmental agenda<sup>45</sup>. In June 2022, when the resolution on the right to a healthy environment was adopted by the UN General Assembly, the U.S. specifically called for countries to "*protect the environment, address the climate crisis, stop attacks on environmental defenders around the world, and promote accountability for human rights violations and abuses affecting those defenders*"<sup>46</sup>.

The ACE Action Plan should become a tool to foster an enabling environment for people exercising their rights to access to information, participation, and education in the framework of climate action. The United States should ensure that the action plan to

be adopted at COP27 specifically recognizes that three of the six elements of ACE are human rights and that it includes activities to support their implementation, including by addressing barriers in the development and implementation of national climate change policies, plans, strategies, and action.

The United States should also continue its commitment to the recognition and protection of environmental defenders and work to adopt an action plan that recognizes the need to effectively protect environmental human rights

defenders and include activities that support the Parties' efforts to guarantee an enabling environment for those on the frontlines of the climate crisis.

The U.S. commitment to protecting defenders should be reflected in the ACE Action Plan negotiations by ensuring that the plan includes activities that allow parties to address challenges faced by defenders to access information or public participation and build capacity to ensure a safe and enabling environment for them.

Some specific activities that could be included in the plan:

1. Identify and share good practices and lessons learned regarding the implementation of the elements of ACE, including the rights to participation and access to information and education, into the development and implementation of national climate change policies, plans, strategies, and action.
2. Identify and share barriers to and gaps in the implementation of the elements of ACE, including the rights to public participation and access to information and education, into the development and implementation of national climate change policies, plans, and strategies with a clear intergenerational, gender, disability and intersectional approach.
3. Hold an ACE Dialogue on environmental human and rights defenders, including Indigenous peoples and frontline communities, that allows the identification of obstacles that defenders face when trying to exercise their rights to access information, public participation, and education.
4. Identify and address barriers to the protection of environmental and human rights defenders and obstacles they face when exercising their rights to access information and participation.
5. Identify specific protection program tools for environmental and human rights defenders and opportunities to resource such initiatives.

# 4

## Leading a new agenda item to recognize the impacts of the climate crisis in the growing violence against environmental defenders

In 2021, the U.S. State Department issued its Guidelines for U.S. Diplomatic Mission Support to Civil Society and Human Rights Defenders<sup>47</sup>. The guidelines reiterate the commitment of the Biden administration to put human rights and democratic principles at the center of foreign policy. The guidelines state that the U.S. is committed to supporting human rights defenders who seek to respond to human rights threats and reinforce democratic principles grounded in a free and enabling civic space. Further, the guidelines mention that the U.S. is supporting defenders and civil society by *“Developing policies to reduce violence against human rights defenders who seek to protect an area and/or its natural resources from negative environmental impact from an ongoing or proposed activity”* offering a specific link to how the U.S. is committed to supporting protections for environmental defenders worldwide.

The U.S. has also recognized the unique challenges of providing support to land and environmental defenders who are under threat by creating an Interagency Working Group on Environmental Defenders. The working group created in 2017 has met with numerous defenders and helped them contact U.S. embassies. The interagency working group actively follows trends related to environmental and land defenders, distributes information to over 40 embassies and numerous government agencies, and organizes webinars for U.S. government officials where civil society organizations can present their work<sup>48</sup>.

The United States should translate its commitments to human rights and the protection of defenders to the international

climate change fora by recognizing the link between the climate crisis and the growing violence and repression against environmental defenders. The U.S. should also propose policy measures to address this situation in the context of international cooperation. The U.S. response to climate change cannot be effective if defenders and frontline communities, both in the U.S. and worldwide, are sacrificing their lives and integrity to demand climate justice.

The UNFCCC climate negotiations currently provide very little recognition of the central role that environmental and human rights defenders and civil society play in the global response to the climate crisis. Fortunately, there are opportunities to make progress on this issue during this year’s negotiations at COP27 in Egypt. This year’s meeting provides an opportunity for parties to the Paris Agreement to create space to better recognize, advance, and protect the role of land and environmental defenders in the implementation of the agreement. One such approach could be to create a platform for dialogue (e.g., a task force) in consultation with civil society, UN Special Procedures, OHCHR, the Escazú Agreement Secretariat, the Aarhus Convention Secretariat, and other existing frameworks.

Such a task force could propose policy measures to recognize and protect the role of land and environmental defenders in the context of climate change, increase understanding and awareness of threats they face on the national level, and share experiences and best practices about measures taken to ensure their protection and rights to enable a just and inclusive global response to the climate crisis.

The U.S. has an opportunity to play a leadership role in such an initiative and to work with other states and civil society groups to further conceptualize the initiative and propose a methodology to increase protection

for defenders and ensure participation from diverse environmental and civil society groups in climate policy-making and at UNFCCC summits.

## 5

### **Strengthening civil society participation: Closed civic space in Egypt raises concerns for a participatory and inclusive COP27**

At the global level, international climate negotiations continue to be inaccessible for frontline communities and defenders. Civil society organizations have denounced restrictions on participation through visa denials, deportations, and limited opportunities for UN-accredited organizations to register representatives<sup>49</sup>.

Additionally, when civil society observers manage to get to the conference, they experience new restrictions to making their voices heard. At COP24 in Poland, a new law was adopted just before the conference to prevent spontaneous peaceful assemblies. At COP25 in Madrid, activists were barred from the conference after protesting the slow pace of the negotiations<sup>50</sup>.

For COP26, the U.K. presidency had promised to hold the most inclusive COP ever. That was far from reality as many civil society representatives, especially those from the global south, were excluded from the conference. Some could not travel to Glasgow due to high costs, obstacles to getting a visa, and quarantine requirements, among other issues<sup>51</sup>. Observers that were able to travel to Glasgow faced challenges in making their voices heard. During the first two days of the conference, observers were excluded from

the negotiation meetings, and throughout the conference, there were very few speaking opportunities provided to observers.

Even when civil society and community representatives are allowed to take part, their perspectives and wisdom as the first responders to the climate crisis are often overlooked by government negotiators. This is especially true for frontline communities and defenders who have fewer opportunities and resources to engage in these difficult and costly processes to participate in COP meetings.

There are growing concerns that the situation at COP27 will continue and even worsen these conditions as the context of Egypt as a closed civic space country raises additional concerns<sup>52</sup>. In May 2022, the Egyptian foreign minister revealed in an interview that Egypt was “developing a facility adjacent to the conference center” for public demonstrations and that activists “would be provided access to one day of the negotiations,” further increasing concerns that civil society and Egyptian activists have expressed. Civil society organizations have called on the Egyptian authorities to uphold the rights to freedom of expression, association, and peaceful assembly to enable a successful climate summit<sup>53</sup>.

Effective climate action should be inclusive and participatory. The recent IPCC reports have indicated that the success of climate policies is also determined by the ways they are developed and whether they include the people most affected by the impacts of climate change. At the UNFCCC negotiations, the secretariat and the parties, especially the U.S., should work to ensure that defenders,

community representatives, and civil society observers can effectively access the conference, participate in the negotiations, and exercise their rights to freedom of assembly and association without fear. At the same time, those lobbyists blocking the negotiations, hindering success, or promoting climate misinformation should be excluded from the process<sup>54</sup>.

## Strengthening observer engagement rules:

In 2022, the UNFCCC secretariat started a process to review the observer engagement rules. Parties to the Paris agreement have recognized the role of nonparty stakeholders and the need to strengthen their engagement in the operationalization of the Agreement and *"reaffirmed the value of contributions from observer organizations to deliberations on substantive issues and acknowledged the need to further enhance the effective engagement of observer organizations as the UNFCCC process moves forward into the implementation and operationalization of the Paris Agreement."*

The bold and transformative climate action needed to achieve the objectives of the Paris Agreement requires that the UNFCCC's rules of procedure elevate the voices of those most impacted by climate change by providing them with a meaningful seat at the negotiating table. Constituencies should be able to effectively exercise their right to participate in environmental decisions.

Multilateral negotiations that allow direct participation of civil society have achieved major success. For example, in Latin America, during the negotiation of the Escazú Agreement, civil society representatives had two seats at the negotiation tables, which allowed them to take the floor and make statements and present their proposals directly to the delegates during the negotiation, not only at the end of the session, as is the practice at the UNFCCC process<sup>55</sup>.

The U.S. can play a leading role in this process by calling on the secretariat and parties to strengthen the rules for observer engagement in a way that allows the direct participation of civil society in the negotiations. The U.S. should focus on advocating for the participation of frontline and environmental defenders from regions more impacted by the effects of climate change.

## **Inclusion of diverse stakeholders in parties' delegations**

Country delegations participating in UNFCCC meetings should ensure fair representation and inclusion of diverse, impacted stakeholders within their official delegations. Several delegations have adopted a practice to include civil society experts and Indigenous peoples within their delegation<sup>56</sup>. This is an important step that can ensure that a broader diversity of views and knowledge to are reflected in the negotiations.

The U.S. included one Indigenous person in the official delegation at COP26. The commitment

of the administration to diversity, inclusion and human rights should be reflected by including a diversity of civil society voices in the official U.S. delegation. The U.S. should also address the issue of funding and how lack of access to funding prevents civil society and Indigenous representatives from participating in UNFCCC meetings. Funding should be made available to effectively guarantee that Indigenous peoples and civil society from the U.S., especially communities of color, are represented at UNFCCC meetings.

## **Governments wishing to host COPs should commit to guaranteeing a safe and enabling environment for civil society and Indigenous representatives**

Civil society and Indigenous peoples have been raising concerns for years about access, participation, and freedom of assembly at UNFCCC meetings. COP27 will be a particular challenge because of the context of closed civic space in Egypt. To enable diverse, safe, and effective participation of observers during COPs, it is important to develop mechanisms that ensure people's rights and well-being from an access rights perspective.

Parties, including the U.S., and the UNFCCC secretariat, should work to develop a protocol for risk assessments and preventive measures to ensure the safe and effective participation of the public in the selection of host countries. Such a protocol could ensure that the minimum conditions for the effective participation of observers at UNFCCC meetings are guaranteed. The commitment of the U.S. to protect democracy and civic space should be reflected by publicly advocating for the adoption of such a protocol and calling on any country that wishes to act as a host for UNFCCC meetings to commit to the full

guarantee of the rights to freedom of peaceful assembly and of association.

The protocol should include a provision for any country hosting UNFCCC to commit to the guarantee of freedom of association and peaceful assembly as a prerequisite for their nomination to host international climate fora as recommended by the UN Special Rapporteur on Freedom of Assembly and Association in its 2021 report presented to the UN General Assembly<sup>57</sup>. Governments wishing to host a COP meeting should demonstrate their commitment to human rights and people's participation and show leadership at the global, regional level, and national levels on climate issues. The protocol could also help ensure that all governments hosting climate negotiations commit to ensuring the freedoms of association, peaceful assembly, and expression of civil society participants and observers, and fulfill guidelines to guarantee people's participation, including providing visas on time and ensuring that hotel and transportation costs are not exclusionary.



# 6

## Address Loss and Damage as a Human Rights Concern

More than half of the population of the world lives in regions that are highly vulnerable to climate change impacts. Across regions, the most vulnerable communities are disproportionately affected by climate change impacts. Global hotspots of high human vulnerability are found particularly in West-, Central- and East Africa, South Asia, Central and South America, small island developing states, and the Arctic. Vulnerability is higher in locations with poverty, governance challenges, limited access to basic services and resources, violent conflict, and high levels of climate-sensitive livelihoods<sup>58</sup>.

Climate change has led to substantial damage and irreversible losses, including adversely affecting the health of people worldwide, causing displacement, undermining food security, and affecting livelihoods. The most recent IPCC on impacts presents data on why addressing loss and damage at the UNFCCC process is essential to climate justice<sup>59</sup>.

As the new UN Special Rapporteur on climate change and human rights recently stated in his first report to the UN General Assembly, from a human rights perspective, loss and damage is about the right to remedy and the principle of reparations for victims of human rights violations<sup>60</sup>. Following that reasoning, in international environmental law, the *polluter pays* principle calls on the polluter to bear the cost of pollution<sup>61</sup>. In this case, those countries that have produced the most greenhouse emissions should be liable to compensate for the financial costs of loss and damage of those countries impacted by climate change. However, that is not currently happening, and

the finance gap for loss and damage continues to grow. Such a gap is reflected in millions of people losing their homes, and facing growing human rights violations due to climate change, especially in poor countries that have not contributed to the climate crisis and yet are living with the direst consequences.

The projected economic cost of loss and damage by 2030 has been estimated to be between USD 400 billion and 580 billion a year in developing countries alone<sup>62</sup>. The climate vulnerable economies loss report from June 2022 established that the 20 countries more vulnerable to climate change have lost approximately \$525 billion due to climate change impacts, approximately 20 percent of the full wealth of those countries that could have been used to improve the lives of the people most vulnerable<sup>63</sup>. Additionally, the impacts of climate change are also producing non-economic losses such as loss of life, human health, cultural heritage, and even sovereignty<sup>64</sup>.

Although there is some international funding available and efforts on bilateral relief support to respond to loss and damage, according to the UN Special rapporteur on climate change, such arrangements are not enough, are poorly funded, or are difficult to access<sup>65</sup>. Samoa, a member of the Alliance of Small Island States argued that, ironically, existing funding arrangements usually imply more debt for the applicant in the process of accessing them<sup>66</sup>. At the national level, some developing countries, already suffering the impacts of climate change, have also established funding arrangements to address loss and damage<sup>67</sup>.



## Loss and Damage at COP26

Civil society and developing countries campaigned strongly at COP26 for loss and damage to be addressed at the negotiations. The G77 countries called for the creation of the Glasgow Loss and Damage Facility, an entity to provide technical and financial assistance to alleviate climate impacts and prioritize the most vulnerable communities, particularly small island developing states and least developed countries. However, developed countries, including the U.S., opposed this proposal<sup>68</sup> and used its leverage during the negotiations to pressure developing countries to agree on a final decision that only included a call to start a new dialogue on loss and damage, the Glasgow Dialogue, which civil society described as a blow to climate justice<sup>69</sup>.

During the Bonn climate conference of June 2022, developing countries specifically stated that the Glasgow Dialogue agreed to at COP26 should have the objective of exploring ways to fund loss and damage and establish a new facility under the financial mechanism of the UNFCCC at COP27<sup>70</sup>. Nonetheless, after the Bonn conference ended, the Glasgow Dialogue on Loss and Damage was still not included in the official agenda for COP27. A few weeks later, thanks to the advocacy of developing countries and civil society organizations, an item on financing arrangements for Loss and Damage was included as a provisional item in the agenda for COP27.

## Delivering on Loss and Damage at COP27

The Biden administration, which has publicly committed to supporting the Paris Agreement and the multilateral response to climate change, is blocking small islands' and developing nations' efforts to create the infrastructure necessary to access funding and protect the rights of the people that will lose their homes and livelihoods due to climate change.

The U.S. has historically resisted requests from developing countries to address loss and damage. During the negotiations of the Paris Agreement, the U.S. even advocated excluding a specific article on loss and damage (which ended up being Article 8)<sup>71</sup>. At the time, the U.S. explained its position with concerns about the potential fear of liability<sup>72</sup>. That led to the adoption of a paragraph in the

Adoption Decision of the Paris Agreement, which specifically states that the Paris Agreement's section on loss and damage *"does not involve or provide a basis for any liability or compensation"*<sup>73</sup>.

Experts agree that the request by developing countries at COP26 to create a fund to address loss and damage has no effect on terms of liability for the U.S.<sup>74</sup>. However, the U.S. block to address loss and damage continues. In February 2022, during negotiations for the adoption of the summary for policymakers of the IPCC report, the U.S. delegate requested to remove the words losses and damages, which was qualified by experts as an attempt to *"obscure the underlying science"*<sup>75</sup>. This position undermines the Biden administration's public commitment to science and climate change.

The U.S. is historically the largest carbon polluter and, as such, must act as a climate leader. More than 400 civil society organizations sent a letter to heads of delegation meeting in Cairo in September asking them to support the inclusion of an item on finance to address loss and damage in the agenda for COP27<sup>76</sup>. The summary outcome of the heads of delegation meeting was finally published on October 10 with the agreement that an agenda item to consider loss and damage funding arrangements will be included for COP27<sup>77</sup>.

Small islands, developing nations, and civil society organizations have demonstrated that the current financial mechanisms under the UNFCCC are geared toward averting

and minimizing loss and damage through mitigation and adaptation but that they do not provide funding to support people recovering from the impacts of climate change that go beyond the ability to adapt<sup>78</sup>. A positive step has been made by the inclusion of a specific agenda item to discuss loss and damage at COP27. The United States should support the call of G77 and China to establish a loss and damage facility that provides finance in the form of grants for developing countries and affected communities and people. At the least, the U.S. should not block the establishment of such a facility and should allow other parties and funders to provide the resources for such a facility to start functioning<sup>79</sup>.

# SUMMARY OF **RECOMMENDATIONS** FOR THE U.S. GOVERNMENT:

## **Supporting a human rights approach to climate change at the UN Human Rights Council:**

- As a new member of the Human Rights Council, the United States should make climate change a policy priority for its period at the council, and actively contribute to strengthening the integration of climate change and human rights agendas. The United States should work to promote coordination between the HRC and other UN bodies where climate change is discussed, especially the UNFCCC.
- The United States should sign the Geneva Pledge for Human Rights in Climate Action. Through the pledge, the U.S. should work in coordination with like-minded governments to jointly promote cooperation and coordination on issues relating to climate change and human rights between the HRC and the UNFCCC.
- The State Department should make sure that the U.S. negotiation team at UNFCCC meetings is briefed on the discussions taking place in the Human Rights Council regarding climate change and that the resolutions of the HRC are effectively reflected in the positions of the U.S. at the UNFCCC negotiations.

## **Supporting a human rights approach to climate change at the UNFCCC:**

### **Recommendations for the Paris Agreement Global Stocktake:**

- As one of the co-facilitators of the Global Stocktake, the United States has a privileged position to ensure that the Global Stocktake is developed through a human rights approach. The U.S. should work towards a GST that puts people and the impacts of climate change on their rights at the center of discussion, especially those in positions of vulnerability and exclusion who are the most affected by the climate crisis.
- As co-facilitator, the United States should ensure that human rights experts, Indigenous peoples, environmental and human rights defenders, and representatives of communities on the frontlines of the climate crisis can participate in the technical dialogue and roundtables of the GST and facilitate and lead some of those discussions.

- During the first technical GST dialogue in June 2022, human rights were addressed as a cross-cutting issue. Unfortunately, the human rights conversation got lost and was not effectively included in each of the round tables developed during the GST dialogue. Human rights experts, including frontline and Indigenous leaders, should be able to provide direct input to the co-facilitators and the secretariat to develop the agenda and draft the questions for future GST dialogues and discussion tables.
- The United States has an important opportunity to reflect its commitment to human rights by making sure that each of the three topics discussed during the Global Stocktake (mitigation, adaptation, and finance) allows parties to discuss the human rights implications of the climate crisis.
- The United States should ensure that during the development of the Global Stocktake, delegations effectively analyze how their countries are fulfilling their human rights obligations when addressing climate change. The United States delegation should include Indigenous peoples and human rights experts as country delegates for the GST.
- The United States should use its leverage in this process to engage with other parties in the human rights conversation. Through its dialogue process, the GST offers a space for peer pressure among parties to raise the ambition of climate action, a key component of the model of the Paris Agreement. The United States should also offer ideas, good practices, and incentives for other parties to respect their human rights obligations.
- The U.S. should work towards achieving a technical summary as a result of the GST that includes specific guidance on how parties should increase their ambition to fulfill their human rights obligations and how to develop the next round of NDCs by ensuring the promotion, protection, and respect of human rights.

## **Recommendations for the Action Plan on Action for Climate Empowerment (ACE):**

- The United States should ensure that the action plan adopted at COP27 specifically recognizes that three of the six elements of ACE are related to human rights and that it includes activities to support their implementation including by addressing barriers in the development and implementation of national climate change policies, plans, strategies, and action.
- The United States should also work to adopt an action plan that recognizes the need to effectively protect environmental and human rights defenders and include activities that support Parties' efforts to guarantee an enabling environment for those on the frontlines of the climate crisis.

### **Some specific activities that could be included in the plan:**

- Identify and share good practices and lessons learned regarding the implementation of the elements of ACE, including the rights to participation, access to information, and education in the development of national climate change policies, plans, strategies, and action.
- Identify and share barriers and gaps in the implementation of the elements of ACE, including the rights to public participation and access to information and education in the development and implementation of national climate change policies, plans, strategies, and action with a clear intergenerational, gender, disability, and intersectional approach.
- Hold an ACE dialogue on environmental and human rights defenders, including Indigenous peoples and frontline communities, that identifies the obstacles that defenders face when trying to exercise their rights to access information, public participation, and education.
- Identify and address barriers to the protection of environmental and human rights defenders and obstacles they face when exercising their rights to participate and access information. Identify specific protection program tools for environmental and human rights defenders and opportunities to resource such initiatives.

### **Recommendations to lead a new agenda item to recognize the impacts of the climate crisis in the growing violence against environmental defenders:**

- The United States should play a leadership role in creating a new platform for dialogue (e.g., a task force) dedicated to proposing policy measures to recognize and protect the role of land and environmental defenders in the context of climate change, increase understanding and awareness of threats they face on the national level, and share experiences and best practices about measures taken to ensure their protection and rights to enable a just and inclusive global response to the climate crisis.
- The platform should be created in consultation with civil society, the UNFCCC Secretariat, and other UN entities working on similar issues to promote policy coherence, such as the UN Special Procedures, OHCHR, the Escazú Agreement Secretariat, the Aarhus Convention Secretariat, and other existing frameworks.
- The United States should work with other parties and civil society groups to further conceptualize the initiative and propose a methodology to increase protection for defenders and ensure participation from diverse environmental and civil society groups in climate policy-making and at UNFCCC summits.

### **Recommendations to strengthen civil society participation at international climate negotiations:**

- The United States should play a leadership role in the process of strengthening observer engagement rules by calling on the secretariat and parties to work towards allowing the direct participation of civil society in the negotiations. The U.S. should have a special focus on advocating for the participation of frontline and environmental defenders from those regions most impacted by the effects of climate change.
- The commitment of the U.S. administration to diversity, inclusion, and human rights should be reflected by including a diversity of civil society voices in the official U.S. delegation. The U.S. should also address the issue of funding and how lack of access to funding prevents civil society and Indigenous representatives from participating in UNFCCC meetings. Funding should be made available to effectively guarantee that Indigenous peoples and civil society from the U.S., especially communities of color, are represented at UNFCCC meetings.

- The United States should ask the UNFCCC Secretariat to develop a protocol for risk assessments and preventive measures to ensure the safe and effective participation of the public in the selection of host countries. Such a protocol could ensure that the minimum conditions for effective participation of observers at UNFCCC meetings are guaranteed, including by providing guidelines to guarantee visas on time and ensure that hotel and transportation costs are not exclusionary, etc. The protocol should also include a provision for any country hosting UNFCCC to commit to the guarantee of freedom of association and peaceful assembly as a prerequisite for their nomination to host international climate forums.
- The commitment of the United States to the protection of democracy and civic space should be reflected by publicly advocating for the adoption of the protocol and calling on any country that wishes to act as a host for UNFCCC meetings to commit to the full guarantee of the rights to freedom of peaceful assembly and of association.

### **Recommendations for Loss and Damage:**

- The United States should support the inclusion of loss and damage as an agenda item for COP27.
- The United States should support the call of G77 and China to establish a loss and damage facility that provides finance in the form of grants for developing countries and affected communities and people.



# ENDNOTES

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