Human rights implications of COVID-19 response measures in the context of climate change

Analytical study

This Analytical Study presents a structured survey of the existing evidence regarding the nature, scope and effects of COVID-19 response measures, their interconnection with climate finance and their implications for human rights. Its overall conclusion is that, although the evidence reviewed suggests a shared concern for social protection in the context of both climate finance and COVID-19 response measures, the human rights dimension remains insufficiently fleshed out and integrated, and there are often inconsistencies between the pursuit of economic, social and environmental objectives. The study recommends the integration of the human rights dimension by means of a human rights-based approach to the combined context of climate finance and COVID-19 response measures. This approach should be guided by the analysis of climate finance and COVID-19 measures in the work of human rights mechanisms. Such work highlights the specific relevance of several cross-cutting obligations, including the obligations to effectively mobilize financial and other resources, to cooperate internationally, to provide social protection, and to provide participatory and inclusive decision-making processes. The study discusses these obligations in detail, as they arise in the context of specific human rights, and it investigates their operation through case-studies. It concludes with general and specific recommendations for further action.

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3. Introduction

As the world continues to navigate the COVID-19 pandemic and to face the interlinked environmental crises of climate change, nature loss and pollution, States are in grave need of resources and fiscal space as well as policy information and scientific and economic data to recover better from COVID-19, which is to say more inclusively, equitably and sustainably, in a manner that accounts for the human rights effects of these crises particularly on persons in vulnerable situations.

However, economic stimulus measures in response to COVID-19 have often bailed out carbon-intensive industries neglecting environmental and climate commitments. At the same time, the vast majority of international climate finance still takes the form of loans, which limits the ability of many countries to invest in recovery, climate action, and the sustainable development goals. A truly sustainable recovery strategy from COVID-19 must support climate resilient development, including global efforts to reach climate-neutrality by 2050, while respecting, protecting, and fulfilling human rights for all. By contrast, policy responses that limit fiscal space and fail to meet the Paris Agreement commitments of moving away from unsustainable modes of production and consumption bear a risk of prolonging and deepening the climate crisis and its negative human rights impacts, as well as curtailing the resources available for the realization of human rights.

The Office of the High Commissioner for Human Rights (OHCHR) aims, in line with the 2030 Agenda, the Sustainable Development Goals (SDG) and the Paris Agreement, to promote climate action, including economic policies related to climate change, that respects, promotes, and considers States’ human rights obligations and addresses the negative human rights impacts of climate change. The Office works to achieve this, including through research, advocacy and awareness raising about the human rights obligations of States and other entities in the context of climate change, such as the obligation to effectively mobilize financial and other resources to support the progressive realization of human rights. Climate action that takes into account human rights, is gender-responsive, and is centred on the needs of persons who may be disproportionately affected by climate change, has been shown not only to promote the realization of human rights, but also to lead to better and more effective climate policy outcomes.

Global economic policies and measures designed for COVID-19 recovery and climate action should protect, respect and fulfil human rights for all people, including those in vulnerable situations and women and girls in all their diversity, leaving no one behind. The principles and standards derived from international human rights law, especially the Universal Declaration of Human Rights and the core universal human rights treaties, should guide all relevant climate policies and programming. A climate-responsive development approach will enable climate change mitigation and adaptation while protecting people’s human rights.

In this context, this Analytical Study presents a structured survey of the existing evidence regarding the nature, scope and effects of COVID-19 response measures, their interconnection with climate finance and their implications for human rights. Its overall conclusion is that, although the evidence reviewed suggests a shared concern for social protection in the context of both climate finance and COVID-19 response measures, the human rights dimension remains insufficiently fleshed out and integrated, and there are often inconsistencies between the pursuit of economic, social and environmental objectives.

The Analytical Study recommends the integration of the human rights dimension by means of a human rights-based approach to the combined context of climate finance and COVID-19 response measures. This approach should be guided by the specific analysis of climate finance and COVID-19 measures in the work of human rights mechanisms. The Analytical Study provides a structured examination of this work. As a general matter, a human rights-based approach rests on a number of cross-cutting obligations arising from human rights, including the obligations to effectively mobilize financial and other resources, to cooperate internationally, to provide social protection and to provide participatory and inclusive decision-making processes. The study discusses these obligations in detail, by reference to a structured examination of legal authorities which have specifically addressed the implications of COVID-19 measures and climate finance for human rights.

Section 2 of the Analytical Study examines the nature, scope and effects of the COVID-19 rescue and recovery policies, paying particular attention to their interconnection with climate finance and their human rights implications. Section 3 analyzes the combined context of climate finance and COVID-19 response measures from the perspective of international human rights law. It introduces the main components of a human rights-based approach in this specific context, as it emerges from the practice of human rights mechanisms. Sections 4 and 5 provide more detailed discussions of the experience of certain countries (Fiji and Senegal) and certain international initiatives (G20 debt relief initiatives and the Green Climate Fund’s gender responsiveness policies). Section 6 concludes with general and specific recommendations for further action.

1. Covid-19-related stimulus policies, climate finance and implications for human rights
   1. **Overview**

Since the COVID-19 pandemic began in early 2020, States around the world have greatly expanded their fiscal stimulus policies first and foremost to contain in the short-term the adverse economic and social impacts of the pandemic and the related lock-down measures (‘rescue policies’) but also to reactivate their economies in the medium to the longer-term (‘recovery policies’). The ability to adopt these measures as well as their nature and specific goals vary significantly across countries. Developed countries, which – due to the low interest rates they face – have a facilitated access to borrowing, have adopted massive fiscal packages, whereas middle- and low-income countries have faced significant obstacles to do so. The types of policies and the goals pursued by such policies also vary greatly, not only in their timeframe (rescue vs recovery) but also in their magnitude (higher vs lower spending), type (with different taxonomies proposed) and overall goals (economic, social, environmental or a combination thereof).

Climate finance is relevant in this context in three main respects. When stimulus policies are multidimensional (i.e. they pursue not only an economic and/or social goal but also an environmental one, which is climate-related), they can support both mitigation of and adaptation to climate change, as part of what has been called an effort to ‘build back better’. In addition, funds mobilized as part of climate finance, by a range of multilateral, domestic and private institutions, can contribute to post-COVID-19 recovery while re-orienting recipient economies towards a low-carbon pathway. However, stimulus policies may also undermine the transition to a low-carbon economy, whether by investing funds in fossil-fuel intensive sectors or by increasing the debt-burden of States conducting such policies, which in turn diverts funds away from their use for mitigation or adaptation.

The connection between stimulus policies and climate finance has been examined in some detail in a growing number of publications. This section relies on a selection of 20 reports and other studies published in 2021, which take stock of earlier studies and describe trends regarding COVID-19 rescue and recovery policies, climate finance and their interconnections. The analysis also takes into account other sources when relevant. The specific focus of the section is to understand, on this basis, the implications of these trends for human rights. One significant aspect arising from the analysis is that the human rights dimension remains under-explored, both at an empirical and normative level. When this dimension is addressed, it is mainly through a focus on the social implications (for inequality and livelihoods) of the relevant policies. Yet, little or no explicit reference to the need to respect, protect and fulfil human rights is made as such, and the international cooperation dimension tends to concentrate on addressing climate change without fleshing out the implications (positive or negative) for human rights.

The section begins with an overview of global trends relating to COVID-19 fiscal stimulus and climate finance. It then provides a taxonomy of the main types of COVID-19 stimulus policies and explores their interactions with climate finance-related policies. Finally, it analyzes three key issues from the perspective of human rights: differences between advanced economies and low- and middle-income countries in terms of impact and ability to respond; the policy ‘trilemmas’ faced by the latter; and possible routes to integrate economic, social and environmental goals in this policy landscape, with particular reference to knowledge gaps as regards human rights.

* 1. **Global trends**

From a quantitative standpoint, the evidence gathered by the Global Recovery Observatory (GRO), a joint initiative of academic and intergovernmental institutions, shows that out of the USD 16.64 trillion spent in COVID-19 fiscal stimulus by the 89 countries monitored by this project since the beginning of the pandemic,[[1]](#footnote-1) the large majority of the funds (USD 14.31 trillion) has gone into short-term ‘rescue’ policies, with only a fraction (USD 2.33 trillion) focusing on ‘recovery’.[[2]](#footnote-2) The term ‘rescue’ stands in this context for ‘short-term measures designed for emergency support to keep people and businesses alive’, whereas the term ‘recovery’ means ‘long-term measures to boost economic growth’.[[3]](#footnote-3) Out of ‘recovery’ measures, only a small fraction (21% or USD 0.5 trillion) qualifies as ‘green spending’ under this methodology, understood by reference to the associated emissions of greenhouse gases (GHG), air pollution and impact on natural capital.[[4]](#footnote-4)

The GRO methodology underpins a report from the UN Environment Programme (UNEP) of March 2021, which concludes that ‘global green spending is so far incommensurate with the scale of ongoing environmental crises and that associated economic and social gains are not being fully captured’.[[5]](#footnote-5) This report highlights that the global pandemic laid bare and exacerbated pre-existing problems, including climate change and widespread inequality. The focus on inequality touches on human rights aspects, without however analysing them explicitly. The report highlights that ‘employment impacts and the health impacts of the pandemic are disproportionately burdening low-income communities, women and gender minorities, and other marginalised individuals’.[[6]](#footnote-6) Specifically, the report reviews evidence that the disease burden as well as job losses have affected mainly groups in vulnerable situations, women and gender minorities and low-income earners, increasing inequality and reversing progress made in the last three decades to reduce poverty.[[7]](#footnote-7)

In this context, the focus of spending on COVID-19 rescue policies on social protection is understandable, but there are major disparities between advanced economies and low- and middle-income countries, with the former having spent on average 17 times more per capita than the latter.[[8]](#footnote-8) One key reason explaining the disparity is the greater ability of advanced economies to borrow at interest rates close to 0%, due to their solid credit ratings and monetary policies pushing interest rates down. By contrast, low- and middle-income countries often have riskier credit profiles and face much higher interest rates, which in turn places a substantial burden on their ability to borrow and repay and, more generally, to have sufficient budgetary space to pursue other goals.

An update to this report published in late October 2021 estimated COVID-19 rescue and recovery spending per capita at USD 15,139 for advanced economies (and USD 15,889 for the largely overlapping category of countries listed in Annex II of the UNFCCC), USD 726 for countries not included in Annex I of the UNFCCC (in essence developing countries) and only USD 64 for the sub-set of non-Annex I countries which are Least-Developed Countries (LDCs).[[9]](#footnote-9) At the same time, out of the total funds spent in COVID-19 rescue and recovery policies by Annex II countries (in essence advanced economies), only 3% is green spending.

This evidence strongly suggests that COVID-19 rescue and recovery spending is failing to tackle both climate change and inequality. In order to understand why this is so, it is necessary to look more closely at the types of policies involved.

* 1. **Types of policies**

The policies forming the body of COVID-19 fiscal stimulus are regularly compiled by programs such as the International Monetary Fund (IMF)’s Fiscal Monitor database[[10]](#footnote-10) and the aforementioned GRO.[[11]](#footnote-11) With respect to the related question of climate finance policies, information on their main types can be derived from the regular reports of the Climate Policy Initiative.[[12]](#footnote-12) Relying on these sources, this section looks at the nature and focus of COVID-19 stimulus and climate finance policies adopted by countries and intergovernmental organisations.

The classification of COVID-19 stimulus policies used by the IMF for its Fiscal Monitor publication is structured around the budgetary implications of each policy.[[13]](#footnote-13) Policies are seen from the perspective of ‘spending’ and, more specifically, from that of five categories of spending with different implications for government budget and debt: additional government spending or tax cuts; tax deferrals; loans; equity injections; guarantees.

A more granular and descriptive classification is provided by the GRO, based on a set of over 3000 specific policies adopted around the world. As noted in the previous section, this classification is structured around two broad categories, namely ‘rescue’ and ‘recovery’ policies. There are policies that cannot be neatly categorized under either ‘rescue’ or ‘recovery’ policies, but they represent a small proportion of the overall body of policies. Within ‘rescue’ and ‘recovery’ policies, some subcategories can be identified, each with their more granular types. Table 1 is adapted from the methodological paper underpinning the GRO’s taxonomy.[[14]](#footnote-14) It describes the different categories, with a broad indication of their relative importance in monetary terms:

**Table 1: Types of COVID-19 stimulus policies[[15]](#footnote-15)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Rescue policies**  (USD 14.31 trillion) | | | **Recovery policies**  (USD 2.33 trillion) | |
| **Temporary liquidity measures** | **Temporary life and livelihood measures** | **Temporary tax and payment relief measures** | **Incentive measures** | **Investment measures** |
| 1. Liquidity support for subnational public entities 2. Liquidity support for large businesses 3. Liquidity support for start-ups and SMEs 4. Liquidity support for not-for-profit organizations 5. Temporary waiver of interest payments for businesses | 1. Direct provision of basic needs 2. Targeted welfare cash transfers 3. Job continuation support 4. Temporary waiver of interest payments for individuals 5. Healthcare services support 6. Emergency services (disaster management) support | 1. Income tax cuts 2. VAT and other goods and services tax cuts 3. Business tax cuts 4. Business tax deferrals 5. Reduced prices for centrally-controlled products and services 6. Other tax cuts and deferrals | 1. Targeted recovery cash transfers 2. Tourism and leisure industry incentives 3. Electric vehicle incentives 4. Electric appliance and efficiency incentives 5. Green market creation 6. Other incentive measures | 1. Working retraining and job creation 2. Education investment (non-infrastructure) 3. Health care investment (non-infrastructure) 4. Social and cultural investment (non-infrastructure) 5. Communications infrastructure investment 6. Traditional transport infrastructure investment 7. Clean transport infrastructure investment 8. Traditional energy infrastructure investment 9. Clean energy infrastructure investment 10. Local (project-based) infrastructure investment 11. Building upgrades and energy efficiency infrastructure investment 12. Natural infrastructure and green spaces investment 13. Other large-scale infrastructure investments 14. Armed forces investment 15. Disaster preparedness and capacity building investment 16. General research and development investment 17. Clean research and development investment |

As noted in the previous section, out of the USD 2.33 trillion spent or announced for post-COVID-19 recovery policies, only a fraction (21% or USD 0.5 trillion) qualifies as ‘green spending’. ‘Green spending’ is understood by reference to three categories, namely GHG emission reductions, air pollution policies and natural capital protection. The 2021 UNEP report offers a more granular analysis of the allocation of funds within the three main categories, including the ambiguous effects of some spending (e.g. only 3% of the USD 2.33 trillion is being allocated to protect natural capital whereas sums amounting to 17% of those USD 2.33 trillion could negatively impact such capital, as a result of expanded road transportation and defense services).[[16]](#footnote-16)

Neither the IMF nor the GRO classification expressly link COVID-19 stimulus policies to the wider range of climate finance policies. As noted in [section 2.1], climate finance may interact with COVID-19 stimulus polices in complex ways. The latter may increase emissions or divert funding from climate-related goals, but the same policies, if designed and implemented integrating sustainability considerations, can also invest in social protection as the foundation of resilience and adaption. This could be the case of policy types 6 (Direct provision of basic needs), 7 (Targeted welfare cash transfers), 8 (Job continuation support), 9 (Temporary waiver of interest payments for individuals), 10 (Healthcare services support) and/or 11 (Emergency services – disaster management – support), but also of wider business support ones, such as bail-outs (type 2 (Liquidity support for large businesses)). The main issue is therefore ‘how’ these policies are designed and implemented. As noted by the 2021 UNEP report, ‘many of the largest of these policies could have included positive green attributes. For instance, airline bailouts in nations all over the world, including South Africa, South Korea, the United Kingdom, and the United States could have included green conditions [ … ] tied to liquidity support, like requirements to reach net-zero emissions by 2050 or mandates to increase sustainable fuel use’.[[17]](#footnote-17)

Climate finance may also support the COVID-19 recovery, when the funds mobilized by multilateral, domestic and private institutions for this purpose are also beneficial from a social and economic recovery perspective. At the domestic level, incentive measures of types 20 (Electric vehicle incentives), 21 (Electric appliance and efficiency incentives) and 22 (Green market creation) or investment measures of types 30 (Clean transport infrastructure investment), 32 (Clean energy infrastructure investment), 34 (Building upgrades and energy efficiency infrastructure investments) or 35 (Natural infrastructures and green spaces investment), to mention a sub-set, are typically multi-purpose.

The Climate Policy Initiative’s *Global Landscape of Climate Finance 2021*[[18]](#footnote-18) provides some indication of the sources and main targeted sectors of such financial flows. Overall, the average of 2019-2020 climate finance flows amounted to USD 632 billion (broadly consistent with the USD 0.5 trillion figure in the 2021 UNEP Report, which covers only a sub-set of countries). The specific estimate for 2019, i.e. pre-COVID-19, was between USD 608 and 622 billion.[[19]](#footnote-19) This suggests that COVID-19 rescue and recovery policies have added little to climate finance. This is consistent with the fact that the rate of increase from 2017-2018 (USD 574 billion on average) to 2019-2020 (USD 632 billion on average) is significantly lower (10%) than in the previous two bienniums (approx. 25%).

The origin of the USD 632 billion was almost evenly split between public (51%) and private (49%) funds, with the largest source represented by national development finance institutions investing domestically (USD 120 billion). Bilateral and multilateral public sources accounted together for just over USD 100 billion. The overwhelming majority of climate finance went to mitigation (USD 571 billion), mainly to the energy (USD 334 billion) and transport sectors (USD 175 billion).

The format of such support measures can be clarified by reference to the incentive measures (types 20, 21 and 22) and investment measures (types 30, 32 and 34) identified in the GRO’s taxonomy. Seen from a budgetary perspective, the bulk of the support took the form of debt (USD 384 billion) and equity (USD 206 billion) instruments. Grant assistance remained very limited (USD 36 billion or 6% of overall climate finance flows), which has implications from a human rights perspective (see [section 2.4]).

From a geographic perspective, three quarters of all climate finance (USD 479 billion) flowed domestically, which further highlights the disparities in the ability of different countries to invest in climate action. Such disparity is further compounded by the fact that, out of all international flows (USD 153 billion), the large majority went to East Asia and the Pacific, Western Europe and North America, with only a quarter being invested in Central Asia & Eastern Europe, Latin America & the Caribbean, Middle East & North Africa, Other Oceania, South Asia and Sub-Saharan Africa.[[20]](#footnote-20)

The disparity of financial means across countries is therefore a matter relevant both for COVID-19 stimulus and climate finance. This is further indication of the need to increase, redirect and align these two types of financial flows to overcome such disparities. As discussed next, addressing disparities across countries is a fundamental need from the perspective of human rights.

* 1. **Implications for human rights**

*Differences between advanced economies and low- and middle-income countries*

The differences in terms of impact of the crisis and in the ability to respond is a recurrent theme in the studies surveyed. A report of March 2021 by the UN Inter-agency Task Force on Financing for Development warns, in this context, against the ‘grave danger of a sharply diverging world—with one group of countries recovering on the back of strong stimulus measures and digital acceleration, and many others sinking deeper into a cycle of poverty, hunger, unsustainable debt and austerity’.[[21]](#footnote-21)

Another report, published by the Green Climate Fund (GCF) in May 2021, which relies on and summarises a substantial body of prior research, emphasizes that the crisis resulting from the COVID-19 pandemic has affected developing countries much more deeply than the 2008 sub-prime crisis.[[22]](#footnote-22) It relies on UNEP’s 2021 report with respect to COVID-19-related spending, which, as noted earlier, has unveiled wide disparities between per capita support in low- and middle-income countries as compared to advanced economies.

The GCF report surveys other previous studies to conclude that the COVID-19 crisis has had an adverse impact on the number of people facing food insecurity (which has more than doubled from 135 million in 2010 to 272 million in 2020), losing their jobs, and falling below the poverty line (500 million additional people, which is the first such increase in 30 years).[[23]](#footnote-23) These effects have been particularly acute in developing countries, including Small Island Developing States. This is certainly relevant to understand the situation of human rights in the most affected countries, but this aspect is not expressly analyzed in the report.

By contrast, the report published in October 2021 by the World Health Organization (WHO) is more explicit in this regard.[[24]](#footnote-24) The emphasis of this report, and of its ten recommendations, is on the co-benefits of climate action for health.[[25]](#footnote-25) But it specifically includes an action point under its recommendation no. 3 that emphasizes the need to ‘honour everybody’s right to health’, and it refers to the increasing recognition of the right to a safe, clean, healthy and sustainable environment.[[26]](#footnote-26)

In explaining the grounds for this action point, the report highlights both the disparate impact of the climate crisis on certain States and groups, and the need for a ‘rights-based approach’ to tackle this impact: ‘Everyone is harmed by the impacts of climate change to some degree, but these harms fall disproportionately on disadvantaged population groups - including women and girls, Indigenous communities, people in crisis, displaced people, and the poor [ … ] Small Island Developing States and other countries and regions most at risk are bearing the brunt of the climate crisis, despite a negligible contribution to emissions. In order to challenge and reverse growing inequities and ensure no one is left behind, a rights-based approach to tackling the climate crisis is necessary’.[[27]](#footnote-27)

The need for a rights-based approach appears all the more pressing given that low- and middle-income countries face intractable allocation choices, and they should be supported not as a mere matter of discretion, but as a matter of law (see [section 3]).

*Policy ‘trilemmas’ faced by low- and middle-income countries*

The conundrum faced by low- and middle-income countries is clearly recognized in a *Joint statement by the Adaptation Fund, the Climate Investment Funds, Green Climate Fund, Global Environment Facility, Least Developed Countries Fund, and Special Climate Change Fund* of 26 July 2021, which notes that ‘[d]eveloping countries are particularly vulnerable to compound risks from climate change and the COVID-19 pandemic, including the economic fallout from the pandemic. These nations require urgent access to long-term, affordable finance to implement climate-resilient recovery measures that will avoid emissions and climate-vulnerability lock-in for decades to come’.[[28]](#footnote-28) However, the statement falls short of expressly referring to the need to protect and promote human rights. Indeed, rather than a ‘dilemma’, the situation is more accurately described as a ‘trilemma’ which requires addressing economic, environmental and social needs, with decreasing funds and access to funding.

Although there are variations reflecting the specific circumstances of each country, in general, low- and middle-income country must face this trilemma in conditions that are rendered extremely challenging by their limited funds, the costs of servicing their foreign debt, the higher interest rates they face in capital markets when compared to advanced economies as well as the capital outflows and foreign exchange risks they must manage when borrowing.[[29]](#footnote-29) In short, they are more affected and less able to mobilize the resources to respond. In this context, international support becomes urgent, particularly in the form of grant-finance. Yet, the evidence reviewed suggests that such support remains clearly insufficient and, in some cases, it has decreased.

A study from the World Resources Institute (WRI),[[30]](#footnote-30) focusing on the impact of the COVID-19 crisis on domestic and international climate finance in 17 developing countries from different continents, finds that between 2019 and 2020 the proportion of official development aid (ODA) for projects relating to climate change fell from 18% to 14% (projects where climate change is the principal focus) and from 25% to 17% (projects where climate change is a significant focus). In over a third of the 17 countries surveyed, domestic climate finance also went down, as a result of natural disasters and the need to reallocate funds to tackle the effects of the pandemic.[[31]](#footnote-31)

UNEP’s Adaptation Gap Report of November 2021 begins by noting that ‘[t]he pandemic’s impact on global climate change adaptation processes is increasingly visible through direct effects on adaptation planning and constraints on available finance’.[[32]](#footnote-32) It goes on to emphasize the mismatch between adaptation needs and adaptation finance flows, particularly in light of the pressures introduced by the pandemic. Specifically, it concludes that ‘estimated adaptation costs and likely adaptation financing needs in developing countries are five to ten times greater than current international public adaptation finance flows’.[[33]](#footnote-33)

A report from UN Conference on Trade and Development (UNCTAD) focusing on least developed countries (LDCs), although with a broader scope, also reaches the conclusion that LDCs have been particularly affected by the pandemic, which combined with pre-existing social and economic challenges, has ‘reversed the progress that had been painstakingly achieved on several dimensions of development, notably on the fronts of poverty, hunger, education and health’.[[34]](#footnote-34) The report recognizes that the pandemic has shifted the budgetary focus away from wider goals, including some of the SDGs, and that the risk profile of LDCs as well as the limited foreign direct investment (FDI) flowing into them calls for an increasing need for grant-based ODA, instead of debt.[[35]](#footnote-35) However, as noted earlier by reference to the *Global Landscape of Climate Finance 2021*, grant assistance remains only 6% of overall climate finance flows.

Recognizing such strictures, most reports recommend integration of financial flows to support projects and policies that pursue social, economic and environmental (climate) purposes. As discussed next, such integration has so far been conceptualized in a manner that lacks a clear articulation of a human rights based approach.

*Integrating economic, social and environmental goals*

The GCF report of May 2021 examined earlier[[36]](#footnote-36) pays particular attention to the relationship between COVID-19 stimulus policies and climate finance. On this issue, it specifically identifies four main challenges for developing countries to scale up climate finance: making COVID-19 recovery and climate action mutually supportive; increasing investment while managing the debt-burden; attracting private investment despite their higher investment risk profile; accessing affordable long-term finance. These challenges and the policies that may be used to address them are discussed in detail from the perspective of climate finance.[[37]](#footnote-37) The report proposes to address them, first and foremost, by means of integrated policies pursuing climate, sustainable development and COVID-19 response objectives. The report also stresses the need for foreign debt-relief to create fiscal space for integrated action, including by innovative instruments such as green bonds or the so-called ‘debt-for-climate swaps’ (conversion of foreign debt into obligations of the debtor country to make payments in local currency in support of specific climate-related projects).[[38]](#footnote-38) Although the social dimension pervades the discussion of these possible actions, the report makes no explicit reference to human rights.

The same observation applies to most other efforts aimed at shaping an integrated approach to economic, social and environmental goals in COVID-19-related stimulus packages and climate finance. Whereas there is clearly a common concern to ensure that policies are socially beneficial, the more specific concern for individuals and groups beyond aggregate measurements, as holders of human rights, needs to be better fleshed out. The aforementioned *Joint Statement of Climate Finance Institutions* strongly emphasizes integration, but it omits any specific reference to human rights. UNEP’s 2021 *Are we building back better* report focuses on integrated policies in five specific areas (green energy, green transport, green building upgrades and energy efficiency, natural capital, and green research and development) but it does not expressly address the relevance of human rights. A joint report from the World Bank and the Climate Investment Funds (CIF) expressly links COVID-19, climate and human health as a starting point to recommend integration of climate-smart healthcare into COVID-19 response and recovery policies, but it falls short of linking such concerns to human rights.[[39]](#footnote-39) Similarly, a joint report from the UN Economic and Social Commission for Asia and the Pacific (ESCAP) and the Global Green Growth Initiative (GGGI) focuses on integrating climate and environmental considerations in COVID-19 response and recovery policies by means of a range of financial instruments, such as project finance, funds and facilities, thematic bonds, carbon pricing and debt-for-climate swaps.[[40]](#footnote-40) The social dimension is implicit in the analysis and no express reference is made to human rights.

Two partial exceptions to the lack of articulation of the human rights dimension include the aforementioned report of the WHO[[41]](#footnote-41) and a working paper from the International Labour Organization (ILO) of October 2021.[[42]](#footnote-42) The WHO report includes several action points on the use of climate finance to pursue integrated climate and health goals, such as the scaling up of finance for vulnerable countries to tackle the health and climate change crises[[43]](#footnote-43) and build resilience,[[44]](#footnote-44) or the removal of harmful subsidies for fossil fuels and unsustainable agriculture.[[45]](#footnote-45) Recommendation 9 is entirely devoted to financial matters. Its starting-point is the recognition that financial decisions taken to deal with the COVID-19 crisis can either lock in unsustainable economic patterns or promote health and environmental protection. The four associated action points are all consistent with the needs identified in other reports and studies, namely to stop financing polluting activities, close the finance gap for health adaptation and resilience, ensure that at least public finances are aligned with health and environmental goals, and provide debt relief to vulnerable nations. However, instead of leaving human rights-related matters implicit, its recommendation no. 3 stresses the requirement to ‘honour everybody’s right to health’ and refers to the need for a human rights-based approach.[[46]](#footnote-46) The ILO working paper focuses on the action of multilateral financial institutions to support integrated policies and, in discussing options, it refers to human rights and international labour standards.[[47]](#footnote-47)

The preceding survey suggests that the lack of articulation of the human rights dimension of the link between COVID-19 rescue and recovery and climate finance is largely a matter of what aspects are (or are not) being emphasized. Indeed, although all reports recognize that the alignment of COVID-19-related finance and climate finance involved a social dimension, the latter somewhat falls between the cracks. In other words, the social dimension lacks articulation, and the role of human rights is not specified. This is an important gap which requires specific attention, as it did in the specific context of climate finance and human rights.[[48]](#footnote-48) The next section provides an initial examination of this gap from a legal perspective. More work is needed to fill this gap from both a legal and an empirical perspective, and this Analytical Study includes specific recommendations in this respect.

1. A human rights-based approach to climate finance and COVID-19 rescue and recovery policies
   1. **Overview**

The legal gap identified in the previous section requires an extension of the analysis conducted to develop a human rights-based approach to climate finance so as to also encompass COVID-19 rescue and recovery policies. This extension must re-examine three main aspects, namely the reasons why such an approach is needed, the duty-bearers (States but also certain entities, such as businesses, investors and financial institutions) and the key human rights risks arising in this extended context.

For consistency, the application of a human rights-based approach to this extended context relies, as much as possible, on existing documents articulating this approach, including in the context of climate finance, as adjusted to take into consideration certain specificities of COVID-19-related policies. The implementation of this approach is not only a legal requirement for COVID-19-related policies and climate finance to be consistent with human rights, but it may also help design the type of integrated policies discussed in the previous section.

In the following sections, after a brief discussion of the reasons justifying a human rights-based approach in this extended context and the duty-bearers, a detailed analysis of key human rights risks is provided, based on a structured survey of 46 studies, reports and guidelines published between June 2014 and October 2021 specifically addressing climate finance and/or COVID-19-related policies. This set of materials is selected out of a much wider, yet unspecific and less directly relevant, body of work, which could be further analyzed as part of a comprehensive initiative to address the legal and empirical gap identified in the previous section.

* 1. **Reasons requiring a human rights-based approach**

The need for a human rights-based approach to the extended context of both climate finance and COVID-19 rescue and recovery policies rests on the same five main reasons identified by previous work on climate finance.[[49]](#footnote-49)

First, there is a clear and strong imperative arising from the international law of human rights, including treaties and customary international law, for both climate finance and COVID-19 rescue and recovery policies to ensure that human rights standards are fully integrated, respected and promoted in policies, decisions and processes adopted in this context. As noted earlier in this Analytical Study, the integration of the human rights dimension is not a matter of discretion but a matter of law. Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) expressly requires States parties ‘individually and through international assistance and co-operation’ and ‘to the maximum of their available resources’ to undertake steps to achieve the full realization of economic, social and cultural rights.[[50]](#footnote-50) Similarly, Article 2, paragraphs (1) and (2) of the International Covenant on Civil and Political Rights (ICCPR) require States parties ‘to respect and to ensure to all individuals’ within their territory or jurisdiction the rights recognized in the ICCPR and ‘to adopt such laws or other measures’ necessary to give effect to these rights.[[51]](#footnote-51)

Secondly, a human rights-based approach in this extended context performs two complementary functions, namely as a legal basis requiring certain actions to respect, protect and fulfil human rights and as normative framework defining the bounds within which climate finance and COVID-19 rescue and recovery policies must evolve to be consistent with human rights. This is because of the complexity of the potential effects of such action. Fighting climate change and addressing the effects of the pandemic is necessary not only from an environmental and economic perspective, but also a social one, however, the policies and instruments used to pursue one of these goals may not necessarily be aligned with the others. Integration of the three goals is therefore necessary (see [section 2.4] above) and such integration must both be proactively shaped by and remain within the bounds of human rights.

Thirdly, integration of human rights alongside the economic and environmental goals of climate finance and COVID-19 rescue and recovery policies is important to ensure policy coherence. Such coherence is key from two main perspectives. One is the express call to ensure policy coherence in the 2030 Agenda for Sustainable Development,[[52]](#footnote-52) the Addis Ababa Action Agenda[[53]](#footnote-53) and the preamble of the Paris Agreement,[[54]](#footnote-54) recently re-emphasized in the Glasgow Climate Pact.[[55]](#footnote-55) The other is the decreasing availability of funds, particularly in those low- and middle-income countries most affected by the combined climate and pandemic crises, which requires policy integration as the most realistic approach to tackle what may otherwise be an intractable trilemma (see [section 2.4] above).

Fourthly, a human rights-based approach to the extended context of climate finance and COVID-19 rescue and recovery policies strengthens the equitability and acceptability of the policy response in two ways.[[56]](#footnote-56) One is the shift in the focus from aggregate figures to the specific situation of individuals and communities with a human face. This perspective still lacks specific articulation in the body of reports and studies reviewed in section 2 of this Analytical Study, which focus essentially on aggregate outcomes. This makes it all the more important that such reports recognize the disproportionate impact that the pandemic is having on those who face situations of discrimination or vulnerability.[[57]](#footnote-57) The other perspective concerns decision- and policy-making, where a human rights-based approach can greatly contribute to participatory, democratic, fair and accountable processes. [[58]](#footnote-58)

The fifth reason is that a human rights-based approach is important to clarify and allocate the specific rights and responsibilities of a range of actors, public and private, domestic and international, which are involved in the extended context of climate finance and COVID-19 rescue and recovery policies. A rights-based approach emphasizes that provision and allocation choices are not a matter of discretion, but a matter of legal rights and responsibilities. This is further discussed next, in connection with the identification of duty-bearers.

* 1. **Duty-bearers**

The primary duty-bearers of the obligations under treaty and customary international law to respect, protect and fulfill human rights are States and State agencies (e.g. development agencies and export credit agencies (ECAs)). However, other entities, including intergovernmental organizations (e.g. international financial institutions (IFIs) and multilateral development banks (MDBs)) and the private sector (e.g. investors, financial intermediaries, insurance companies) also have obligations and/or responsibilities. The landscape and contours of such obligations and responsibilities have been discussed in detail in OHCHR’s previous work on the human rights-based approach to climate finance.[[59]](#footnote-59)

The framework developed in that work is also applicable to the extended context of climate finance and COVID-19 rescue and recovery policies, with some adjustment as regards individuals and groups particularly affected by the pandemic as well as the provision of financial means to low- and middle-income countries through approaches ranging from grants, loans, guarantees but also debt suspension and cancellation, among others.

This section summarizes the approach developed in connection with climate finance, adjusting it when necessary to reflect specificities of the extended climate finance and COVID-19 rescue and recovery context. The more detailed discussion of the implications for specific human rights is provided in [section 3.4].

*Obligations of States*

Under international human rights law, States have both internal and external obligations in relation to the respect, protection and fulfilment of human rights.[[60]](#footnote-60) In addition, they have collective obligations to cooperate to realize human rights.[[61]](#footnote-61) In the extended context of climate finance and COVID-19 rescue and recovery policies the emphasis of these obligations is on effectively providing sufficient funding for not only economic and environmental needs to be met but also social protection, and this in a manner consistent with human rights law, norms and standards. Social protection should not only understood as an aggregate variable but, crucially, also as a requirement under international human rights law to respect, protection and fulfil the rights of individuals and groups.

Internal dimension

Internally, a human rights-based approach is required not only in the development, financing and implementation of climate action[[62]](#footnote-62) but also in the development, financing and implementation of COVID-19 rescue and recovery policies.

Given the trilemma faced by low- and middle-income countries, this can be achieved by adopting policies that pursue economic, environmental and social objectives in an *integrated manner* (see [section 2.4]).

Moreover, considering the disproportionate effect of both climate change and the pandemic on people and communities in or at risk of vulnerable situations, which has increased inequality and reversed progress made in the last three decades to reduce poverty,[[63]](#footnote-63) both climate finance and COVID-19 strategies must be designed to *benefit these individuals and groups*. In this regard, good practices include public participation in decision- and policy-making processes,[[64]](#footnote-64) the conduct of human-rights impact assessments (HRIAs) in decision- and policy-making, specifically assessing the situation of these individuals and groups,[[65]](#footnote-65) and the adoption of gender-responsive approaches not only in climate finance but also in COVID-19 rescue and recovery packages.[[66]](#footnote-66) [Section 5.3] of this Analytical Study examines a specific case-study relating to gender-responsiveness policies.

A third aspect of the internal dimension concerns State *regulation of the business sector*.[[67]](#footnote-67) Such regulation must support a transition to a low-carbon economy which is socially just and leaves no one behind.[[68]](#footnote-68) That may mean, for example, to ensure that businesses navigate the pandemic in a manner that does not compromise economic, social and cultural rights of workers, which could be achieved by linking bailouts or other forms of short- and medium-term liquidity support to regulation concerning human rights and labour standards as well as green requirements.[[69]](#footnote-69) It also means to *regulate polluting activities*, including the coal, oil and gas industries and the financial intermediaries supporting them, so as to ensure that they neither encroach directly or indirectly on human rights nor continue to deplete the carbon budget left to remain within the global average temperature goal of the Paris Agreement. [[70]](#footnote-70) A specific policy implication is to stop financing fossil fuel companies, redirect subsidies towards supporting a just transition towards a low-carbon economy,[[71]](#footnote-71) and require stringent climate change and human rights disclosures by companies and financial intermediaries.[[72]](#footnote-72)

External dimension

States must comply with their human rights obligations both in their internal and external action. This includes the obligation to ensure that extraterritorial activities under a State’s jurisdiction respect, protect and fulfil human rights.[[73]](#footnote-73) In the extended context of climate finance and COVID-19 rescue and recovery policies, a key aspect of the external obligations of advanced economies is to enable sufficient budgetary space in low- and middle-income countries to pursue integrated action and policies (see [section 2.4]).

This aspect concerns, more generally, the relations between *human rights and foreign debt*. The general aim in this context should be ‘to balance a debtor and a creditor State’s contractual obligations arising from external debt arrangements and both debtor and creditor’s international legal obligations to respect, protect and fulfil all human rights, particularly economic, social and cultural rights’.[[74]](#footnote-74) Such balancing must respect the overriding principle of the primacy of human rights, stated in paragraph 6 of the *Guiding principles on foreign debt and human rights*. Therefore, ‘their lending and borrowing decisions, those of international or national public or private institutions to which they belong or in which they have an interest, the negotiation and implementation of loan agreements or other debt instruments, the utilization of loan funds, debt repayments, the renegotiation and restructuring of external debt, and the provision of debt relief when appropriate’ must all respect human rights.[[75]](#footnote-75) In addition, as further discussed in [section 5.2], foreign debt strategies must support the ability of debtor States ‘to meet their social and economic needs and their development requirements’ as well as to fulfil their human rights obligations.[[76]](#footnote-76)

In the context of the pandemic, as discussed in [section 2.2] of this Analytical Study, the *disparity across countries* in their ability to borrow and spend is striking, with advanced economies having spent on average 17 times more per capita than low- and middle-income countries.[[77]](#footnote-77) As for climate finance, as noted in [section 2.3], three quarters (USD 479 billion) of all climate finance provided on average in 2019-2020 (USD 632 billion) flowed domestically and the majority (approx. USD 115 billion) of all international flows (USD 153 billion) went to East Asia and the Pacific, North America and Western Europe, with only a quarter being invested in the rest of the world.[[78]](#footnote-78)

A human rights-based approach in this context requires the provision of sufficient finance to those countries, groups and individuals abroad which are most vulnerable not only to climate change but also to the impact of the pandemic. Appropriate policies must be introduced in the relevant financial agencies, including ECAs, national development agencies providing bilateral support and bodies managing foreign debt, to ensure that financial flows are consistent with the human rights obligations of States.

Collective obligations

As for the collective obligations of States, despite the much more substantial spending on COVID-19 rescue and recovery policies than on climate finance, the international organization of the latter is much more structured and institutionalized than that of the former. In the area of COVID-19-related finance or, more generally, international financing of public health-related measures, there are no institutions comparable to the GCF, the Adaptation Fund, the Global Environmental Facility (GEF), the Climate Investment Funds (CIFs) or the range of market mechanisms designed to channel funding for climate change-related projects. The 2021 WHO *COP26 Special Report* notes, in connection with its recommendation no. 9 to ‘Finance a healthier, fairer, and greener future to save lives’, that ‘health is acutely underfunded in most regions, and this is especially true when it comes to climate finance’.[[79]](#footnote-79)

The need for integration of economic, social and environmental goals could be addressed, in this context, through a clearer integration of health as part of the human rights dimension of climate finance, through cooperation to develop a suitable financial architecture for global health in the context of the ongoing discussions relating to a global pandemic treaty and/or, more generally, by global coordinated action enabling low- and middle-income countries to have sufficient budgetary space to adopt integrated policies. Regarding the latter approach, [section 5.2] of this Analytical Study discusses the G20’s Debt Service Suspension Initiative (DSSI) and Common Framework for Debt Treatment beyond the DSSI.

*Obligations and/or responsibilities of other entities*

In addition to States, other entities, including IFIs, MDBs, private investors, financial intermediaries, insurance companies, etc., also play a significant role in both climate finance and COVID-19 rescue and recovery policies. For example, approximately half (49%) of climate finance provided in 2019-2020 came from private sources, and much of the funds borrowed by advanced economies to finance COVID-19-related spending are provided through capital markets.

States are not the only entities that have obligations and/or responsibilities under international human rights law. Several IFIs and MDBs, including the GCF, the GEF, the Adaptation Fund, the World Bank, the International Finance Corporation (IFC) as well as regional development banks, have adopted environmental and social standards to ensure their action is not inconsistent with international standards, including human rights.[[80]](#footnote-80) Private actors, including business organizations, also have responsibilities under international human rights law, which have been recognized by a range of instruments, decisions of international bodies, and international and domestic courts.[[81]](#footnote-81)

A key dimension of the activities of these non-State entities is to enable and support the adoption by low- and middle-income countries of actions and policies pursuing integrated economic, social and environmental goals, in the extended context of climate finance and COVID-19 responses. When a human rights-based approach is already integrated and implemented in the policies of a given entity, further articulation of the human rights aspects of the COVID-19 response dimension into such policies would help align the three purposes. Conversely, when the human rights-based approach is not clearly articulated in the relevant guidelines, such integration would be a priority at the level of policy and implementation.

One possible example would be the need to integrate a human rights-based approach into the policies of the Glasgow Financial Alliance for Net Zero (GFANZ), a global coalition of financial institutions managing assets worth USD 130 trillion which aim to accelerate and mainstream the low carbon transition.[[82]](#footnote-82) Although GFANZ is only starting, its November 2021 plan makes no reference to human rights.[[83]](#footnote-83) This is significant not only because of the financial weight of the coalition but also because its goal to align investment with ‘net zero’ (carbon neutrality) targets could be pursued through very different pathways, some of which would not be consistent with human rights obligations.

* 1. **Specific human rights**

A human rights-based approach to climate finance and COVID-19 rescue and recovery policies must take into account all human rights, which are equally important. However, the specificities of the context presents special risks for the respect, protection and fulfilment of some human rights, which are particularly implicated.

The preamble of the Paris Agreements makes an express reference to human rights, in which the parties ‘acknowledg[e]’ that they ‘should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity’.[[84]](#footnote-84) This paragraph has been restated in the preamble of the Glasgow Climate Pact adopted in November 2021 at COP26.[[85]](#footnote-85) The wording emphasizes the requirement ‘to respect, promote and consider [States’] respective obligations on human rights’ without limitation. All human rights are relevant and applicable, although some may be particularly implicated in various contexts.

Human rights that may be particularly implicated in the context of climate finance and COVID-19 responses, include: the right to health; the rights to information, participation and free, prior and informed consent; the right to adequate housing; the right to adequate food; the rights to freedom of expression, opinion and assembly; and the right to an effective remedy.[[86]](#footnote-86) Moreover, the right to a clean, healthy and sustainable environment, recently recognized by the Human Rights Council,[[87]](#footnote-87) must also be taken into account.

Matters of climate finance and/or COVID-19 impacts and responses have been expressly considered in the light of these human rights. The following paragraphs provide an initial examination of 46 studies, reports and guidelines adopted between June 2014 and October 2021, which provide specific guidance on the implications of a human rights-based approach for the extended context assessed in this Analytical Study.

*The rights to information, participation and free, prior and informed consent*

As discussed in [section 3.3], individuals and communities affected by measures adopted in the context of climate finance and/or COVID-19 responses enjoy a number of procedural rights which are recognized both in general[[88]](#footnote-88) and in the context of certain groups.[[89]](#footnote-89)

The Expert Mechanism on the Rights of Indigenous Peoples has specifically addressed the latter in relation to climate finance.[[90]](#footnote-90) Despite the recognition of free, prior and informed consent (FPIC) of indigenous peoples as a requirement by financial institutions and the private sector,[[91]](#footnote-91) the experience of indigenous peoples shows shortcomings in actual implementation,[[92]](#footnote-92) including imprecise or ambiguous language in guidelines on FPIC.[[93]](#footnote-93) More generally, there is a recognized need for financial institutions and the private sector to develop and implement stringent social, environmental and indigenous peoples’ policies which are consistent with international human rights standards, including participatory rights.[[94]](#footnote-94) But States are the primary duty bearers and they remain responsible for the adequate implementation of human rights standards by non-State entities.[[95]](#footnote-95)

Some recent developments have been welcomed as important to ‘promote both the rights of indigenous peoples and protect biodiversity and ecosystem health’.[[96]](#footnote-96) One illustration is the Facilitative Working Group under the Local Communities and Indigenous Peoples Platform’s two-year workplan for the period 2020–2021, which gave indigenous peoples greater representation in the climate change process.[[97]](#footnote-97)

*The right to adequate housing*

The impact of climate finance and COVID-19 rescue and recovery policies on the right to adequate housing[[98]](#footnote-98) has been increasingly examined by the Special Rapporteur on adequate housing, who has addressed recommendations not only to States but also to financial institutions and development banks.[[99]](#footnote-99)

As a general matter, it is noted that people are frequently forced to live in informal settlements by environmental factors, such as climate change and environmental degradation,[[100]](#footnote-100) which have enormous impacts on the enjoyment of the right to housing.[[101]](#footnote-101) States taking disaster risk management measures often do not consider their effects on vulnerable communities and their right to housing.[[102]](#footnote-102) The Special Rapporteur has therefore underlined, based on the requirements of the ICESCR, including Articles 2(1) and 11(1), that both States individually and the international community must respond to the climate crisis and prioritize access to housing by those most in need.[[103]](#footnote-103) Moreover, and consistent with a human rights-based approach to policy-making, the right to adequate housing must be integrated in strategies and plans on climate change mitigation and adaptation.[[104]](#footnote-104) The Rapporteur has also called international financial institutions and development banks to financially support housing improvement schemes for residents of informal settlements, [[105]](#footnote-105) while highlighting, consistently with the findings of this Analytical Study, that at present these entities do not ‘sufficiently reference the right to adequate housing and its application to upgrading projects.’[[106]](#footnote-106)

Regarding the right to housing as it concerns indigenous peoples,[[107]](#footnote-107) the Rapporteur has called on States should to ensure coordination of housing policies with indigenous authorities and their coherence with policies relating to climate change mitigation and adaptation, the provision of water, sanitation, energy, health care and education.[[108]](#footnote-108) In addition, the Rapporteur has made explicit the link between the right to housing and participatory rights, emphasizing that mitigation and adaptation policies must be carried out in meaningful consultation with indigenous peoples.[[109]](#footnote-109)

In the context of the COVID-19 pandemic, having no home, lacking space for physical distancing in overcrowded living areas or having inadequate access to water and sanitation has adversely affected poor and marginalized communities. States have adopted temporary measures, such as eviction bans, rent and mortgage support payments and measures to protect persons living in homelessness, to postpone the impact of the COVID-19 crisis on housing. The Special Rapporteur has emphasized, also in this context, the need to specifically integrate the right to housing in COVID-19 rescue and recovery policies by formulating non-discriminatory housing strategies with sufficient budgetary allocations.[[110]](#footnote-110) The Special Rapporteur has further noted that there must be ‘a rededication to a human rights-oriented response to the pandemic based on the Sustainable Development Goals, in which housing is at the heart of the recovery’.[[111]](#footnote-111)

*Right to adequate food*

The right to food[[112]](#footnote-112) is also particularly implicated in the context of climate change and COVID-19 responses. Various reports of the Special Rapporteur on the right to food have examined the interconnections between this right, climate finance and COVID-19 rescue and recovery policies.[[113]](#footnote-113)

As regards climate finance and funds set up to guarantee the effective implementation of the UNFCCC (the Special Climate Change Fund, the Least Developed Countries Fund and the Adaptation Fund), the Special Rapporteur has called attention to the lack of public participation in the allocation of funds[[114]](#footnote-114) and, more generally, to the lack of support for funding options such as levies on aviation and shipping or carbon taxes.[[115]](#footnote-115) In a subsequent report, the Special Rapporteur has further emphasized the shortcomings of climate-related financial support from a gender perspective[[116]](#footnote-116) and called for States to ‘[p]romote accelerated efforts in terms of financial aid, in order to ensure that gender equality is mainstreamed throughout all climate change programs in all sectors.’[[117]](#footnote-117) Importantly, the Rapporteur has expressly called for a human rights-based approach to finance and investment[[118]](#footnote-118) involving ex ante human rights assessment of proposed projects[[119]](#footnote-119)

As regards COVID-19 response measures, the Special Rapporteur has noted that the global economic recession resulting from the pandemic has forced governments to face difficult trade-offs, straining their capacity to provide social protection for those most affected by the crisis.[[120]](#footnote-120) While recognizing that the offer to freeze the debt service payments for 73 of the poorest countries advanced in April 2020 by the Governments of the Group of 20 could help free up funds to address the fallout from the pandemic,[[121]](#footnote-121) the Rapporteur has noted the limits in the implementation of the scheme.[[122]](#footnote-122)

Two key aspects raised by the Special Rapporteur, i.e. gender responsiveness in climate finance and debt-relief in the context of the pandemic, are issues of recurrent importance also in the context of other rights. This explains why the two more detailed examples selected for section 5 of this Analytical Study focus on these aspects.

*Right to health*

The right to health[[123]](#footnote-123) has been addressed with regard to both climate finance and COVID-19 response measures.[[124]](#footnote-124) The Special Rapporteur on the right to health has noted, with regard to climate finance, that the right to health deserves central attention in the context of adaptation strategies.[[125]](#footnote-125) Based on the requirements of the ICESCR, including Articles 2(1) and 12, States must therefore provide ‘access to high-quality, rights-based support, that is responsive to the particular needs of persons affected by severe weather events and integrated into existing primary, general health- and social care services’.[[126]](#footnote-126) The Committee on the Rights of the Child has also highlighted the importance of environmental health to children and recognized climate change as a particularly urgent threat to indigenous children’s health and lifestyles, noting that States should put children’s health concerns at the center of their climate change adaptation and mitigation strategies.[[127]](#footnote-127)

As regards COVID-19 response measures, the Special Rapporteur stressed the need for all countries to ‘revitalize universal human rights principles as part of the recovery from the pandemic’,[[128]](#footnote-128) which is also consistent with the finding of this Analytical Study that COVID-19 response policies have not integrated human rights considerations in an explicit manner. The Rapporteur further emphasized the need to ensure ‘transparency and accountability’ when large funds are made available in response and emergency assistance,[[129]](#footnote-129) to mitigate corruption risks in COVID-19 responses[[130]](#footnote-130) and also to allow for sufficient participation of affected communities.[[131]](#footnote-131) In 2021, the Rapporteur further develop the implications of the pandemic for sexual and reproductive health rights, particularly the decrease in funding due to the redirection of funds to the pandemic response.[[132]](#footnote-132)

*The rights to freedom of expression, opinion and assembly*

The impact of the COVID-19 response measures has been examined with regard to the rights to freedom of peaceful assembly and of association.[[133]](#footnote-133) In 2021, the Special Rapporteur on these rights noted that, while some restrictions may be justified for health purposes, the COVID-19 pandemic ‘has been used as a pretext to suppress assemblies, including environmental and climate demonstrations, or increase the limitations imposed on them.’[[134]](#footnote-134)

Moreover, women continue to be severely underrepresented in the top leadership of decision-making bodies and in the formulation of development policy. [[135]](#footnote-135) The Special Rapporteur has thus recommended that ‘development and donor agencies increase funding and flexibility so that local women’s organizations and movements can rapidly scale up their programmes and adapt to the risks posed by COVID-19’ and also ‘track and report how much funding towards the COVID-19 response reaches such groups.’[[136]](#footnote-136)

*Human rights and gender equality*

Gender equality is a key dimension of all human rights, rather than a separate category of rights. As such, the implications of climate finance and COVID-19 response measures for gender equality are addressed in the context of several human rights, including some discussed in the foregoing sections. However, given the importance of this dimension, it must also be discussed under a separate heading, and it is further analyzed in the context of a case-study in section 5 of this Analytical Study.

Both climate finance[[137]](#footnote-137) and COVID-19 response measures[[138]](#footnote-138) have been specifically examined from the perspective of gender equality. In its General Recommendation No. 37, the Committee on the Elimination of Discrimination against Women has noted that ‘States parties and other stakeholders have obligations to take specific steps to address discrimination against women in both disaster risk reduction and climate change fields, through the adoption of targeted laws, policies, mitigation and adaptation strategies, budgets and other measures.’[[139]](#footnote-139) Measures should be ‘gender responsive and sensitive to indigenous knowledge systems’ and respect human rights.[[140]](#footnote-140)

General Recommendation No. 37 is particularly relevant in this context because of its specific discussion of climate change, its examination of the gender dimension in several human rights (right to live free from gender-based violence against women and girls, rights to education and to information, rights to work and to social protection, right to health, right to an adequate standard of living, right to freedom of movement), and its recommendations addressed both to States and non-State actors.

Regarding the latter, the Committee clarified that States parties, both separately and in cooperation with others should ‘[i]ntegrate a gender equality perspective into relevant international, regional, national, sectoral and local programmes and projects, including those financed with international climate and sustainable development funds’;[[141]](#footnote-141) ‘[s]hare resources, knowledge and technology to build disaster risk reduction and climate change adaptation capacity among women and girls, including by providing adequate, effective and transparent financing administered through participatory, accountable and non-discriminatory processes’;[[142]](#footnote-142) and ‘[e]nsure that States, international organizations and other entities that provide technical and financial resources for disaster risk reduction, sustainable development and climate change incorporate a gender equality and women’s rights perspective into the design, implementation and monitoring of all programmes and establish appropriate and effective human rights accountability mechanisms.’[[143]](#footnote-143) The extent to which the latter recommendation has permeated the practice of international climate finance is analyzed in one of the two case-studies selected for section 5, which focuses on the operation of the Green Climate Fund.

With respect to other non-State actors, the Committee emphasized the need for the private sector and civil society organizations to play a role in climate resilience and the promotion of gender equality, domestically and transnationally,[[144]](#footnote-144) including through the development of public-private partnerships which may provide much needed financial and technical resources.[[145]](#footnote-145)

As regards the gender dimension of COVID-19 response measures, in April 2021 the Committee issued a ‘Statement’ and a ‘Guidance Note’ highlighting the disproportionate impact of the pandemic on women’s health[[146]](#footnote-146) and calling for the provision of sexual and reproductive health as essential services,[[147]](#footnote-147) the protection of women and girls from gender-based violence,[[148]](#footnote-148) the equal participation of women in decision-making[[149]](#footnote-149) and for a range of support measures,[[150]](#footnote-150) among other things.

Some of these areas have been further elaborated in a report from the Working Group on discrimination against women and girls noting that, in the majority of cases, reconstruction programs and recovery plans fail to prioritize sexual and reproductive health.[[151]](#footnote-151) According to the Working Group, during the COVID-19 pandemic, ‘delivery of a broad range of essential sexual and reproductive health services and goods has been suspended or postponed’ and ‘[t]reatments for gender dysphoria have also been disrupted, with serious psychological consequences for those concerned.’[[152]](#footnote-152) The Working Group therefore recommended that States recognize the sexual and reproductive health rights of women and girls as essential, fully integrate them response plans[[153]](#footnote-153) and ensure the adequate representation and effective participation of women and girls in decision-making processes at all levels.[[154]](#footnote-154)

As the work of the CEDAW and the Working Group show, there is significant convergence in the understanding of the implications of the COVID-19 pandemic for gender equality.

*The right to development*

The right to development[[155]](#footnote-155) has been examined from the perspectives of both climate finance[[156]](#footnote-156) and COVID-19 rescue and recovery policies.[[157]](#footnote-157)

First, the implementation of the right to development involves adherence to principles of ‘non-discrimination and fundamental freedoms, and to internationally agreed frameworks on climate change, financing for development and sustainable development’.[[158]](#footnote-158) In particular, according to the Special Rapporteur on the right to development, governments and international organizations should focus on development financing not only as a means to elicit economic returns but to comply with ‘States’ obligations to promote development using the maximum resources available and seeking or providing international cooperation in that regard’.[[159]](#footnote-159) For this reason, the GCF ‘should be directly accessible to States and community-based stakeholders’ and, more specifically States should ‘review the rules regulating access to funds so that they are more inclusive and guarantee projects that are truly geared towards reducing emissions and promoting clean energy solutions’;[[160]](#footnote-160) and, if they have contributed disproportionately to climate change, they ‘should meet their corresponding financial commitments, in accordance with Principle 16 of the Rio Declaration on Environment and Development.’[[161]](#footnote-161)

Second, as regards COVID-19 response measures, in a 2021 report, the Special Rapporteur noted that ‘there has been an inadequate degree of international cooperation between nations.’[[162]](#footnote-162) States are falling back on policies designed to primarily protect their domestic interests[[163]](#footnote-163) and one of the most urgent issues ‘is the question of how to scale up concessional financing for the liquidity needed by developing countries to confront the economic impacts of the pandemic’.[[164]](#footnote-164) In particular, both ‘international and regional cooperation are critical to the response and recovery of African economies’.[[165]](#footnote-165)

For these reasons, the Special Rapporteur highlighted central challenges in supporting and protecting the right to development, noting that ‘[i]ncreased financial support and low-cost liquidity will be required to address the immediate health response and economic support needs in developing countries’.[[166]](#footnote-166) Fiscal stimulus, in the form of unconditional grants, by international organizations, including the World Bank and IMF, ‘is necessary to address the urgent health-care needs of developing countries, provide a safety net for the most vulnerable, protect jobs and support economic activity where possible.’[[167]](#footnote-167) The Special Rapporteur also urged States, in the response to the pandemic, ‘to carefully discern the appropriate use of private versus public finance, as private financing may not be appropriate for all financing need’ and its risks require better management.[[168]](#footnote-168)

*The rights of indigenous peoples*

The situation of indigenous peoples has been addressed in the context of several human rights discussed in the foregoing sections, and some key human rights instruments specifically formulate rights enjoyed by indigenous peoples.[[169]](#footnote-169) With respect, specifically, to the implications of climate finance and COVID-19 response measures, the Special Rapporteur on the rights of indigenous peoples addressed these issues in several reports.[[170]](#footnote-170)

As regards climate finance, while investments are required in both developed and developing countries to adapt to and mitigate the effects of climate change, developing countries ‘face by far the greatest adaptation challenges’ and indigenous peoples ‘are at particularly high risk of being pushed into extreme poverty.’[[171]](#footnote-171) According to the Special Rapporteur, a ‘key concern of developing countries is that climate finance prioritizes financial support for mitigation over adaptation measures’ as they ‘prefer that climate finance be channeled through a global mechanism or fund to ensure that the allocations are more equally distributed between adaptation and mitigation.’[[172]](#footnote-172)

After having examined some examples of climate finance mechanisms and funds that exist, i.e. the Global Environment Facility, Clean Development Mechanism, REDD-plus, Adaptation Fund and Green Climate Fund, the Special Rapporteur concluded that, whereas the safeguards, policies and practices that have been developed for indigenous peoples are significant, the extent of their practical application requires continued attention.[[173]](#footnote-173) Indeed, some specific projects funded in the context of climate finance which have not respected safeguards and have negatively affected indigenous peoples’ rights, notably their rights to be consulted and to provide their free, prior and informed consent.[[174]](#footnote-174) The Special Rapporteur gives as examples the Barro Blanco hydropower project in Panama, the Water Towers Protection and Climate Change Mitigation and Adaptation Programme in Kenya and the Agua Zarca dam in the Río Blanco region in Intibucá, Honduras.[[175]](#footnote-175) Similar considerations apply to other development finance actors.[[176]](#footnote-176)

Climate finance mechanisms can create adverse impacts which undermine the rights of indigenous peoples and some still fail to acknowledge the UNDRIP and human rights standards.[[177]](#footnote-177) For this reason, the Rapporteur concludes that the ‘adoption of a human rights-based approach to all climate finance is crucial’[[178]](#footnote-178) and States should take all necessary domestic measures ‘to effectively engage indigenous peoples in climate change adaptation and mitigation measures’;[[179]](#footnote-179) ‘[e]nsure that indigenous peoples are effectively included in national climate change planning and monitoring processes’;[[180]](#footnote-180) [c]omply with the duty to consult and obtain the free, prior and informed consent of indigenous peoples at all stages in the development of climate change initiatives which may affect their rights’[[181]](#footnote-181) and ‘[p]romote participation of indigenous self-governance structures’. [[182]](#footnote-182) In addition, dedicated funding should be provided to address the specific needs of indigenous peoples.[[183]](#footnote-183)

As regards COVID-19 response measures, the report of the international expert group meeting on the theme ‘Indigenous peoples and pandemics’ showed general agreement on the fact that recovery plans ‘should be informed by an approach based on human rights, in particular the right to self-determination and land rights, and that equitable access to quality health care and education was essential.’[[184]](#footnote-184) Similar concerns have also been raised by the Special Rapporteur on the rights of indigenous peoples and detailed in a report presented to the Human Rights Council in September 2021.[[185]](#footnote-185) In particular, according to the expert group, indigenous peoples should be included in the recovery plans and funds for COVID-19[[186]](#footnote-186) and economic recovery models ‘should aim to improve the quality of life and well-being for all, while ensuring balanced economic, social and environmental growth’[[187]](#footnote-187) as well as ‘protect and promote traditional health systems to provide greater coverage and quality of care’.[[188]](#footnote-188) Thus, it is essential that governments ‘ensure the effective participation of indigenous peoples in all recovery efforts, and culturally appropriate health services and education are integral to these recovery plans’ and that ‘recovery efforts take into consideration the impacts of the pandemic on indigenous women and girls and include actions to address these’.[[189]](#footnote-189)

In a 2021 report, the Special Rapporteur further specified that in the short term, States should ‘[c]onsult indigenous peoples and obtain their free, prior and informed consent, through their representative organizations before planning and implementing rights-based COVID-19 responses and recovery measures’[[190]](#footnote-190) and ‘[e]nsure that pandemic emergency plans, responses and recovery measures recognize and support indigenous autonomy and inherent jurisdiction.’[[191]](#footnote-191) Moreover, in structural terms, States should ‘[a]dopt measures to eliminate systemic, institutional racial discrimination and implicit bias in public health-care systems and emergency response planning through awareness raising and anti-racism training’[[192]](#footnote-192); and ‘[e]nsure that COVID-19 recovery measures address the long-term needs and financial impact of the pandemic on indigenous peoples in terms of education, employment, housing, health and other social services’.[[193]](#footnote-193)

*Rights of migrants*

With respect to the rights of migrants,[[194]](#footnote-194) in the context of COVID-19 response measures, the Special Rapporteur on the human rights of migrants has emphasized that States should ensure that international human rights standards protecting migrants are included in all aspects of national responses to the global health crisis.[[195]](#footnote-195) Similar and further recommendations are detailed in the Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants,[[196]](#footnote-196) such as the recommendations to ‘integrate migrant workers into national COVID-19 prevention and response plans and policies’[[197]](#footnote-197) and ‘include migrants and their families, regardless of their migration status, in economic recovery policies, taking into account the need for the recovery of remittance flows’.[[198]](#footnote-198)

*Children’s rights (including intergenerational equity)*

Children’s rights[[199]](#footnote-199) have been examined in the light of both climate finance[[200]](#footnote-200) and COVID-19 rescue and recovery policies.[[201]](#footnote-201)

As regards climate finance, States are urged to ‘ensure that considerations of the rights of the child are integrated in their environmental, climate, disaster risk reduction, humanitarian and development activities, monitoring and reporting, and also to ensure policy coherence in these fields in order to establish a coherent approach to sustainable development that benefits all persons, particularly children and future generations’.[[202]](#footnote-202)

In the context of COVID-19 response measures, the Expert Mechanism on the Rights of Indigenous Peoples has underlined that ‘recovery plans should include provision for the additional barriers to the enjoyment by indigenous children of their rights, including those related to their physical, mental and spiritual health, education and protection.’[[203]](#footnote-203)

In a similar vein, the Human Rights Council has called upon States ‘to recognize and support young people’s potential to advance the fight against the COVID-19 pandemic’, ‘to conduct their coherent youth-related policies through inclusive and participatory consultations with youth organisations and relevant youth-led and youth-focused stakeholders and social development partners’ and ‘to promote new initiatives for the full, effective, structured and sustainable participation of young people in relevant decision-making processes’.[[204]](#footnote-204)

Thus, like for other human rights, there is a clear and converging emphasis on the need to expressly integrate children’s right in policy- and decision-making.

*Persons with disabilities*

The impact of COVID-19 response measures has also been examined with regard to the rights of persons with disabilities.[[205]](#footnote-205) The Special Rapporteur on this topic has stressed that the pandemic has deepened ‘pre-existing inequalities and having a severe impact on the gains made in the past decades on the rights and inclusion of persons with disabilities’.[[206]](#footnote-206) Thus, ‘[a]s the international community reflects on the processes of recovery and building back better, it is necessary to ensure the provision of disability-inclusive investments and policies and to translate them into universally designed systems, inclusive economies and communities that guarantee equal opportunities for all, including persons with disabilities and their families.’[[207]](#footnote-207) For this reason, the Special Rapporteur has made several recommendations to States as well as to international private donors and foundations.

In particular, with the aim of assisting them in ensuring inclusive and accessible international cooperation, he recommended States to ‘[i]ntegrate disability inclusion into the design, implementation, monitoring and evaluation of all mainstream policies and programmes on international cooperation and complement them with disability-specific policies and programmes’;[[208]](#footnote-208) ‘[e]nsure a human rights-based approach to disability in the design, implementation, monitoring and evaluation of all international cooperation efforts and refrain from funding or implementing programmes and projects that are contrary to the rights of persons with disabilities’;[[209]](#footnote-209) and ‘[i]nclude persons with disabilities in all COVID-19-related international cooperation efforts, as both agents and beneficiaries of aid’.[[210]](#footnote-210)

The Special Rapporteur also recommended that international private donors and foundations ‘systematically ensure disability inclusion in all their international cooperation efforts and respect the rights of persons with disabilities in accordance with the Convention.’[[211]](#footnote-211)

*The right to a safe, clean, healthy and sustainable environment*

Climate finance[[212]](#footnote-212) as well as COVID-19 response measures[[213]](#footnote-213) have been discussed in connection with the right to safe, clean, healthy and sustainable environment, as progressively developed in the work of the Special Rapporteur on this right and, more recently, by a resolution of the Human Rights Council.[[214]](#footnote-214)

As regards climate finance, in 2016, the Special Rapporteur noted that some climate finance mechanisms, such as the Clean Development Mechanism, failed to provide for adequate stakeholder consultation and supported the view that ‘the safeguards for the various climate funds and other mechanisms used to finance mitigation and adaptation projects should be made uniform and revised to fully account for human rights considerations’.[[215]](#footnote-215) The Rapporteur also specified that, internally, every State must provide for effective remedies for all human rights violations, including those arising from climate-related actions[[216]](#footnote-216) and, at the international level, ‘States should work together to support the establishment and implementation of procedures to provide such remedies, particularly with respect to measures supported by international finance mechanisms.’[[217]](#footnote-217) Then, in 2019, the Special Rapporteur clarified that it would be against basic principles of justice to force poor countries to pay for the costs of responding to climate change when wealthy countries caused the problem and, thus, climate finance to low-income countries should consist of grants, not loans.[[218]](#footnote-218)

The same report also addresses more specific obligations to both States and climate funds. In particular, since ‘[a]daptation has been chronically underfunded compared to mitigation’,[[219]](#footnote-219) ‘[w]ealthy States must fulfil their commitment to mobilize at least $100 billion annually by 2020 to finance the urgent mitigation and adaptation needs of developing States, with priority given to the least developed countries and small island developing States.’[[220]](#footnote-220) It is noted that ‘[f]unding needs to be ramped up by 2025 to meet the full costs of adaptation, estimated to be $140 to $300 billion per year by 2030.’[[221]](#footnote-221) Moreover, ‘States should establish a global carbon tax with a floor price per ton for developing States and a higher floor price for developed States’ - which should gradually increase every year, in order to ‘address fossil fuel subsidies, internalize the health and environmental costs of burning fossil fuels, and implement the polluter pays principle’.[[222]](#footnote-222) Moreover, it is proposed that ‘[t]he incremental revenue generated by the higher price in developed countries could be used to finance mitigation and adaptation efforts in developing countries.’[[223]](#footnote-223)

Furthermore, climate funds should take steps ‘to strengthen and harmonize social, environmental and human rights safeguards when financing projects’;[[224]](#footnote-224) ‘should require project-specific gender action plans and consistency with the Sustainable Development Goals as prerequisites for project approval’;[[225]](#footnote-225) and ‘need to simplify their procedures and reach out to least developed countries and small island developing States, so that these States are able to access the funds required for mitigation and adaptation’.[[226]](#footnote-226)

As regards instead the process of recovering from the COVID-19 pandemic, the Special Rapporteur stressed that ‘[a] rights-based approach must be applied to the investment of trillions of dollars in economic recovery, ensuring that investments advance human rights, prevent future pandemics, alleviate climate change and biodiversity loss, provide a just transition for vulnerable workers and communities and accelerate progress to achieve the Sustainable Development Goals’.[[227]](#footnote-227) Moreover, ‘[e]nvironmental laws and regulations must not be weakened, nor enforcement relaxed’.[[228]](#footnote-228) For this reason, ‘[f]inancial support should be made conditional on businesses committing to protect the rights of indigenous peoples and local communities, prevent deforestation and land conversion and reduce greenhouse gas emissions at a rate consistent with Intergovernmental Panel on Climate Change guidance’ and ‘[s]ectors that damage ecosystems and biodiversity, including fossil fuels, mining and industrial agriculture, should not receive subsidies.’[[229]](#footnote-229) The Rapporteur also advanced the suggestion that the post-2020 global biodiversity framework should ‘[i]nclude a commitment from wealthy States to mobilize at least $100 billion annually to assist low-income States in conserving, protecting, restoring and ensuring the sustainable use of nature, matching their climate finance commitment’.[[230]](#footnote-230)

The analysis conducted in the foregoing sections in relation to specific rights, categories of rights and dimensions suggests that there is significant convergence on the broad components that a human rights-based approach to both climate finance and COVID-19 response measures should include. First and foremost, human rights should be explicitly integrated into such measures, which is rarely the case. Such integration would require fleshing out requirements relating to resource mobilization, international cooperation, social protection, participatory and inclusive processes and cross-cutting dimensions (gender, indigenous peoples, other particularly vulnerable groups). It would also have to involve both States and non-State entities. The following sections examine in more detail the need for further and clearer integration of these components in the context of two countries and two international initiatives.

1. In-depth focus on two countries: Fiji and Senegal (5 pages)

* This section will discuss the experience of the two ongoing pilot projects, if already available. Otherwise, section 5 will be removed and folded into ‘in focus’ boxes in the landscape section (section 2).
* Pilot project on Fiji
* Pilot project on Senegal

1. In-depth focus on two international initiatives: the G20/Paris Club’s DSSI/Common Framework and gender responsiveness in the GCF’s activities
   1. **Overview**

This section highlights the relevance of and need for a human rights-based approach to the extended context of climate finance and COVID-19 rescue and recovery policies by reference to two international initiatives, one concentrating on debt suspension and relief by G20 and Paris Club countries and the other on the gender dimension of climate finance provided by the GCF.

These two illustrations are selected to shed light on the two areas of the extended context, as well as to highlight that human rights-based approaches are not yet fully integrated into the processes underpinning these initiatives. Although some progress has been made in the context of climate finance, the implementation of the guidelines and actions plans giving expression to aspects of a human rights-based approach, specifically gender responsiveness, needs to be improved.

* 1. **The G20/Paris Club’s DSSI and Common Framework initiatives**

The effects of the COVID-19 pandemic added extreme pressure to the debt burden of many low- and middle-income countries, which were already in debt distress or at high risk thereof before the pandemic.[[231]](#footnote-231) As discussed in [section 2.4], these countries have been left facing a ‘trilemma’ in that they must address economic, environmental and social needs, with decreasing funds and access to funding. A major source of pressure in this regard is the need to service foreign debt, which drains already scarce funds diverting them from domestic use.

In this context, responding to a call for action issued by the IMF and the World Bank, on 15 April 2020, countries of the G20 and of the Paris Club announced a Debt Service Suspension Initiative (DSSI).[[232]](#footnote-232) The DSSI concerns official bilateral lending by traditional Paris Club creditor countries, such as France or the United States, and increasingly important lenders of the G20, such as China. Under this initiative, 73 low- and lower middle-income countries could request suspension of their debt payments for limited periods of time, which were subsequently extended up until December 2021. According to estimates from the IMF and the World Bank, over 40 countries requested suspension of their foreign debt payments, for a total exceeding USD 10 billion.

Debt service suspension helps the relevant countries maintain liquidity, but it does not solve the debt problem and even less so the ‘trilemma’ faced by these countries. One important shortcoming of the system is the fact that only official bilateral creditors take part in the DSSI, which does not cover either multilateral institutions or the private sector creditors. Although a set of ‘Terms of Reference to facilitate voluntary private sector involvement in the DSS’ were released by the International Institute of Finance on 28 May 2020,[[233]](#footnote-233) private sector uptake has remained limited. Another shortcoming is that the system does not tackle the more general need for debt restructuring, either to make it sustainable or to address liquidity problems.

To tackle this broader problem, in an extraordinary meeting of G20 finance ministers and central bank governors held on 13 November 2020, a ‘Common Framework for Debt Treatments beyond the DSSI’ was announced[[234]](#footnote-234) as a cooperative effort to facilitate the restructuring of the debt of the 73 countries eligible for the DSSI. However, the uptake and the speed of the restructuring process have fallen short of expectations, with only three countries (Chad, Ethiopia and Zambia) having initiated a restructuring process under the Common Framework so far, and all these processes facing significant delays.

*Prospects for 2022*

The prospects for 2022 are particularly concerning given that the DSSI comes to an end in December 2021 and an increase in interest rates looming. In an opinion piece published on 2 December 2021, IMF Managing Director Kristalina Georgieva and IMF Director of Strategy, Policy and Review Ceyla Pazarbasioglu, emphasized that the Common Framework ‘can and must deliver more quickly’.[[235]](#footnote-235)

They made four key suggestions to ensure that the form and pace of debt restructuring processes match the challenges presented by the pandemic. First, they recommended more clarity both on the formal steps and timelines of the process under the Common Framework and the informal engagement of official creditors with debtor countries and private creditors. Secondly, comprehensive debt service suspension during the negotiation process would both tackle the impending ending of the DSSI and greatly incentivize uptake. Thirdly, further clarity on how a level playing field would be implemented in restructuring processes would increase trust in and support of the system. Fourthly, the Common Framework should also be available to highly-indebted countries beyond the 73 ones eligible for the DSSI.

Although the economic and social dimensions of the DSSI, the Common Framework and its potential reform for 2022 and beyond are clear, these initiatives do not articulate in any detail their implications for human rights or the manner in which human rights obligations could shape the design and implementation of debt-relief programs. These two aspects are briefly examined in the following paragraphs.

*Implications for human rights*

Despite significant attention to economic and social dimensions of these initiatives, their specific implications on human rights, positive or negative, remain under-researched. It is reasonable to assume that a suspension of foreign debt payments, making funds immediately available for other purposes, has likely supported the adoption of COVID-19 rescue policies in the very short-term. This is a positive development, given the trade-off between debt service and social expenditure. As noted in a report from the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights: ‘[d]ebt service is crowding out social expenditures. Before the pandemic, one in eight countries spent more on debt than on the combination of education, health and social protection. Some of world’s poorest countries, such as Chad, the Gambia, Haiti and South Sudan, are facing the highest levels of debt service and spend multiple times more on debt than they do on essential social expenditure.’[[236]](#footnote-236)

However, a report from Eurodad estimates that, between 2022 and 2024, countries participating in the DSSI will need to repay the amounts that fell due in 2020 and 2021, in addition to those due between 2022 and 2024, with a resulting increase in the debt burden in the coming years.[[237]](#footnote-237) In addition, 12 lower-middle income countries, 18 small island developing States (SIDS) and 48 upper-middle income countries have remained outside of the DSSI and Common Framework initiatives,[[238]](#footnote-238) despite their significant exposure to debt distress.[[239]](#footnote-239)

With respect to the specific implications for human rights law, the Independent expert on the effects of foreign debt[[240]](#footnote-240) noted the ‘lack of an equitable and effective debt crisis resolution mechanism’ and emphasized the obligation under Article 2 of the ICESCRs to take steps to make use of the maximum of available resources to achieve progressively the full enjoyment of all rights in the Covenant.[[241]](#footnote-241) The borrower country has therefore the obligation to ‘ensure that loan conditions do not reduce its ability to respect, protect and fulfil the Covenant rights’[[242]](#footnote-242) and the overall relationship between lenders and borrowers must be based, as stated in the 2011 Guiding Principles on Foreign Debt and Human Rights,[[243]](#footnote-243) on the primacy of human rights over debt-service.[[244]](#footnote-244) Therefore, as discussed in [section 3.3], lenders must also ensure that lending decisions, the negotiation and implementation of debt instruments, debt repayments, the renegotiation and restructuring of external debt, and the provision of debt relief must all respect human rights.[[245]](#footnote-245)

On the DSSI and the Common Framework specifically, the main areas of criticism concern the form of the suspension (its non-concessional terms and the need to resume payments in 2022) and the exclusion of their scope of many affected States: ‘more than half of the world’s small island States don’t even qualify for this debt relief, owing to outdated and illogical criteria, thus ignoring the needs of poor people living in middle- and high-income countries and ignoring the vulnerabilities of small island developing States’.[[246]](#footnote-246)

*‘Sweet spot’ swaps*

Among the financial instruments that have been suggested to align debt relief, climate finance COVID-19 rescue/recovery action, one option which is receiving increasing attention is that of ‘debt-for-climate swaps’.[[247]](#footnote-247)

These instruments can be broadly characterized as ‘transactions where debt is forgiven or restructured in exchange for a commitment by the debtor (for example a developing country) to use the increased fiscal flexibility for mitigation or adaptation measures’.[[248]](#footnote-248) More specifically, debt denominated in a foreign currency, such as USD or EUR (hence more expensive to service as it involves acquiring sufficient amounts of such currency), would be converted into the debtor country currency and used in it for an agreed purpose relating to climate change mitigation or adaptation.

The agreed purpose on the basis of which debt is forgiven or restructured could also be defined more specifically to address not only climate change but also, concurrently, the respect, protection and fulfilment of human rights, in such a way as to align debt relief with the specific pursuit of a ‘sweet spot’. ‘Sweet spot swaps’ would be structured in a manner similar to ‘debt-for-climate swaps’, but for the fact that human rights would not be a mere parameter to be respected in the design of the project but also part of the impact to be achieved.

The human rights enhancing potential of these instruments would lie not only in the fact that it embodies an investment in ‘impact’ which is not confined to climate change or COVID-19 response but also in that it would provide a way of addressing the ‘trilemma’ characterized in [section 2.4]. By re-orienting funds previously earmarked for debt service towards specifically agreed and monitored human rights enhancing purposes, such instruments could provide a realistic approach to integration.

As discussed next, a deeper level of integration of human rights in climate finance is also being increasingly called for in relation to gender responsiveness.

* 1. **Gender responsiveness in the GCF’s projects and programs**

One important dimension of both COVID-19 rescue and recovery policies and climate finance concerns the integration of gender-responsiveness.[[249]](#footnote-249) The 2011 Governing Instrument of the GCF expressly recognizes the need to integrate this dimension when, in its paragraph 3, it states that ‘[t]he Fund will strive to maximize the impact of its funding for adaptation and mitigation, and seek a balance between the two, while promoting environmental, social, economic and development co-benefits and taking a gender-sensitive approach’.[[250]](#footnote-250) Moreover, paragraph 31 further adds that ‘[t]he Fund will provide simplified and improved access to funding, including direct access, basing its activities on a country-driven approach and will encourage the involvement of relevant stakeholders, including vulnerable groups and addressing gender aspects’.

Such express recognition is particularly relevant because, in addition to the importance of the gender dimension from a human rights perspective, the GCF has a special position in setting the standards for climate finance practices globally. This is so because of its ability to mobilize substantial financial flows for climate-related projects and programs, both directly (USD 8.3 billion between 2014-2019 and USD 9.56 billion so far confirmed for 2020-2023[[251]](#footnote-251)) and indirectly (by leveraging wider sources of funding amounting to some USD 37 billion). But also because of its position in the climate change legal regime, as the main financial mechanism under the UNFCCC and the Paris Agreement to support developing countries (non-Annex I countries).

Moreover, given the express mandate in its Governing Instrument, the GCF integrated the gender dimension in its processes since early on, and it adopted a Gender Policy and a 3-year Gender Action Plan in 2015. In 2019, a revised Gender Policy[[252]](#footnote-252) and a new Gender Action Plan[[253]](#footnote-253) were adopted. These documents require initial gender and social assessments as well as project- or program-specific action plans as conditions for funding approval. These materials have been made available on the GCF website since December 2016.

However, based on these materials, a recent study on the integration of the gender dimension in a sample of 30 projects and programs approved for funding (out of a total of 190) has found that gender integration in GCF activities remains insufficient.[[254]](#footnote-254) In the following paragraphs, after a brief review of the integration of the gender dimension in the GCF policies and action plans, the main findings and recommendations of this study are discussed, highlighting their relevance for a human rights-based approach to climate finance.

*GCF’s Gender Policy and Gender Action Plan 2020-2023*

As noted earlier, the GCF developed a Gender Policy and a Gender Action Plan from early on, based on an express mandate in its Governing Instrument. Whereas the Policy sets the main principles fleshing out this mandate, the Action Plan provides a triennial implementation strategy.

The Gender Policy has three main objectives, namely: to support climate change interventions through a comprehensive gender approach applied throughout the entire network of entities involved in the delivery of GCF finance; to promote climate investments that advance gender equality in mitigation and adaptation actions and minimize their gender-related risks; and to contribute to reducing the gender gap of climate change-exacerbated vulnerabilities and exclusions by mainstreaming gender equality issues.[[255]](#footnote-255)

Its scope of application encompasses all the GCF’s funding activities, whether undertaken by the public or the private sector, at four levels: the GCF’s own institutions and processes; the project or program level; at the national level (entities taking part in the application and delivery process, such as ‘accredited entities’, ‘national designated entities’ and ‘focal points’); and at the sectoral level (this is more of an information-gathering focus to track the GCF’s impact).

Importantly, this wide network of entities involved in the channeling of GCF finance, including the GCF’s own institutions, must be guided by four main principles which emphasize gender equality, women’s empowerment and participatory arrangements. Principle 1 is of particularly note for present purposes because it grounds the requirements of the Gender Policy in international legal standards, including the UNFCCC, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the SDGs, the ILO’s core conventions and the Paris Agreement.[[256]](#footnote-256) It is therefore clear that the Gender Policy rests, in part, on international human rights law and standards, and that these are applicable to all the entities involved in the delivery of finance and at all levels. Certain specific requirements are defined for each level (GCF, accredited entities, and project-level requirements).

At the level of projects or programs, a distinction is made between the ‘project preparation stage’, which must include among other things a gender assessment and a project-level gender action plan,[[257]](#footnote-257) and the ‘project implementation, monitoring and reporting stage’.[[258]](#footnote-258) This distinction is relevant also for practical purposes given that the great majority of projects and programs funded by the GCF remain at an early stage and, therefore, their gender responsiveness has mainly been assessed from the perspective of project preparation.

The Gender Policy (Section VII) envisions five main areas for its operationalization, namely: governance; competencies and capacity development; resource allocation, accessibility and budgeting; operational procedures; and knowledge generation and communications. Each of these areas is described in detail, including a set of indicators to assess progress, in the GCF’s Gender Action Plan 2020-2023.[[259]](#footnote-259)

*GCF’s gender responsiveness in practice*

The framework described in the previous paragraphs shows the express integration of gender responsiveness by reference to international human rights law and standards. This is certainly an important step from the perspective of a human rights-based approach to climate finance. However, a detailed assessment of the implementation of this framework at the project preparation stage in 30 approved projects and programs (out of a total of 190) suggests that gender responsiveness is not yet a core consideration in practice.

The assessment scored each of the 30 projects and programs as ‘strong’, ‘adequate’ or ‘weak’ for a number of indicators organized around four main clusters[[260]](#footnote-260): quality of gender considerations in the proposal for funding; understanding and analysis of gender issues in other documents of the project or program; gender risk management through safeguards, grievance and compensation procedures at the project or program level; integration at the project/program level of marginalized gender groups, indigenous peoples and local communities and their priorities. The specific indicators within each cluster are mentioned in Table 2:

**Table 2: Gender scoring indicators**

|  |  |
| --- | --- |
| **Cluster 1: Quality of gender considerations in the proposal for funding** | **Cluster 2: Understanding and analysis of gender issues in other documents** |
| * Does the project/program narrative include gender-equality considerations and ecofeminist cost-benefit analysis? ((a) in the project/program summary? (b) In the detailed technical description of the project/program?) * Is there a gendered description and gender disaggregated data of beneficiaries (baseline and intended reach)? ((a) In the project/program summary? (b) In the detailed technical description of the project/program?) * Are “gender co-benefits” elaborated against the GCF Investment criteria? * Is the project/program allocation gender responsive (“gender budgeting”)? ((a) Are gender-related expenditures integrated in the overall project/program budget? (b) Can women’s groups/local groups/grassroots women get access to project/program funding?) | * Does the Gender Action Plan (GAP) have an adequate budget? Does it fund and support local capacity for gender mainstreaming? * Does the project/program have an intersectional approach to gender? * Does the project/program acknowledge and include people with marginalized gender and sexual identities? * Does the project/program acknowledge and take into account potential impacts on sexual and gender-based violence (SGBV) or sexual exploitation, abuse and harassment (SEAH)? * Does the mandatory Gender Assessment analyze the current state of gender dynamics in the project/program-affected area(s)? * Does the mandatory Gender Assessment predict and address potential harmful gendered impacts? ((a) Is this analysis followed up with addressing potential harmful gendered impacts in overall project/program design? (b) Is this analysis followed up with addressing potential harmful gendered impacts through concrete actions in the project/program-specific GAP?) * Does the project/program take into account potential impacts on the gender division of labor? * Does the GAP include activities that are assigned to responsible entities, include a timeline, cover the project/program period, and have dedicated funding? |
| **Cluster 3: Gender risk management through safeguards, grievance and compensation procedures** | **Cluster 4: Integration of marginalized gender groups, indigenous peoples and local communities and their priorities** |
| * Does the project/program create safeguards to prevent potential harms and gender-responsive risk assessment and monitoring frameworks? * Does the project/program apply free, prior and informed consent (FPIC) and give project/program-affected persons the right to accept or refuse? * Is there a project/program-level, gender responsive redress mechanism? * Does the project/program provide compensation in case of harm that disproportionately impacts women and other marginalized gender groups, such as indebtedness, SGBV, and displacement? | * Does the project/program ensure full, effective and sustained participation of gender groups throughout the project/program cycle? ((a) Does the project/program include women’s groups and national gender machineries in project/program planning? (b) Does the project/program include women’s groups and national gender machineries in project/program implementation?) * Is there gender-responsive governance of project/program management and implementation? ((a) Does the Project/Program Management Unit (PMU) include local gender experts and operate to support and build gender expertise in country (through capacity-building and oversight to Executing Entities)? (b) Are national gender machineries involved in project/program implementation structures? (c) Are civil society groups, particularly women’s groups, Indigenous Peoples and local/community groups, and gender experts involved as Executing Entities, in Advisory Board, etc?) * Does the project/program make complete and accessible information available to all project/program-affected persons (including in local languages)? * Does the project/program collect gender disaggregated data as part of monitoring and evaluation and include gendered indicators in the results management framework? |

The overall result of the assessment is that 90% of projects and programs in the sample fall short of complying with the GCF’s Gender Policy. The gap is larger for certain indicators. From the perspective of the extended context of climate finance and COVID-19 rescue and recovery policies, one noteworthy shortcoming is the finding that two-thirds of the projects and programs in the sample fail to elaborate on their gender co-benefits in any detail. This is a clear confirmation, based on a systematic review of the evidence in a specific context, of the general finding of this Analytical Study that the human rights dimension is not sufficiently spelt out in practice. Another converging finding is that in 60% of the sample, the results of gender assessments are not integrated into the design of the project/program, but only presented as an add on during the approval process. Similarly, almost 60% of the assessed projects/programs fail to involve local women, LGBTQ people, and indigenous peoples in advisory or oversight boards. However, the assessment also concludes that two-thirds of the projects/programs ‘strongly’ or ‘adequately’ ensure full and effective participation of local women and other gender groups in project/program planning and design.

The results of this assessment therefore point to a still unfulfilled process both of implementation of existing policies and of strengthening of some of their contents.

1. Conclusion and recommendations

The *overall conclusion* of this Analytical Study is that, although the evidence reviewed suggests a shared concern for social protection in the context of both climate finance and COVID-19 response measures, the human rights dimension remains insufficiently fleshed out and integrated, and there are often inconsistencies between the pursuit of economic, social and environmental objectives.

The *overarching recommendation* resulting from this conclusion is to explicitly integrate the human rights dimension by means of a human rights-based approach to the combined context of climate finance and COVID-19 response measures so as to ensure that such measures support a human rights enhancing economy. This recommendation is addressed to all duty-bearers subject to human rights obligations and/or responsibilities, including States and State agencies (e.g. development agencies and export credit agencies), intergovernmental organizations (e.g. international financial institutions and multilateral development banks) and the private sector (e.g. investors, financial intermediaries, insurance companies).

To implement this recommendation, three areas of further work are identified, each including *more specific recommendations*:

|  |  |
| --- | --- |
| **Area of further action** | **Recommendation** |
| Human rights enhancing economy | 1. Explicitly integrate a human rights-based approach in policies, plans and measures relating to COVID-19 rescue and recovery and climate finance |
| 1. The integration of a human rights-based approach entails obligations and/responsibilities in relation to the effective mobilization of financial and other resources, international cooperation, the provision of social protection and the organization of participatory and inclusive decision-making processes. |
| 1. All duty-bearers subject to human rights obligations and/or responsibilities, including States and non-State entities must implement recommendations (1) and (2). |
|  | 1. Develop an account that more clearly fleshes out the economic and environmental benefits of human rights-based approaches in the context of COVID-19 rescue and recovery and climate finance. Such an account would rest on a knowledge base to be developed in accordance with recommendations (5) to (7), mainstreamed following recommendations (8) to (10), and specifically tested and implemented in areas such as those mentioned in recommendations (11) to (16). |
| Knowledge base | 1. Initiate a project to map empirically (i) the human rights implications of climate finance and COVID-19 rescue and recovery policies and (ii) the combined effects of integrated policies targeting the intersection between post-COVID economic recovery, climate change and human rights |
| 1. Develop a comprehensive study of the core cross-cutting legal obligations (or of some of them) arising under international human rights law in the combined context of climate finance and COVID-19 response measures |
| 1. Develop specific and measurable indicators of progress with the integration of a human rights-based approach to climate finance and COVID-19 response measures |
| Institutional coordination | 1. Develop formal or informal dialogues with key existing financial institutions (e.g. GCF, Global Environmental Facility, Adaptation Fund, Climate Investment Funds, LDCs Fund, World Bank, IMF, regional development banks) on the need to better integrate human rights |
| 1. Develop formal or informal dialogues with key emerging processes and initiatives (e.g. the G20’s Common Framework, the intergovernmental process to negotiate a global pandemic treaty, the Glasgow Financial Alliance for Net Zero, etc.) on the need to better integrate human rights |
| 1. Establish a general coordination platform for the integration of a human rights-based approach to climate and COVID-19-related finance |
| Specific action areas | 1. [Follow-up action based on needs-assessment arising from the pilot in Fiji] |
| 1. [Follow-up action based on needs-assessment arising from the pilot in Senegal] |
| 1. [Development and follow-up action on the experience of other relevant countries] |
| 1. Development of a pilot project to integrate human rights in the policies/practices of the Glasgow Financial Alliance for Net Zero |
| 1. Developing general assessments of social and environmental policy implementation (akin to the one on GCF’s gender responsiveness) focusing on a wider range of funds and/or human rights (focus on the most vulnerable groups, e.g. migrants) |
| 1. Develop a dialogue with key organizations (e.g. the New Climate Institute, the Climate Policy Initiative, the G20’s Common Framework, etc.) in order to refine and advance the idea of ‘sweet spot’ swaps, as a revised version of debt-for-climate swaps |

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13. IMF, *Fiscal Monitor. Policies to Support People During the COVID-19 Pandemic* (April 2020), at 22, Box 1.1. [↑](#footnote-ref-13)
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15. Source: adapted from ibid, at 8. [↑](#footnote-ref-15)
16. UNEP, *Are we building back better?*, at 15. [↑](#footnote-ref-16)
17. Ibid, at 15. [↑](#footnote-ref-17)
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20. For a consistent assessment of these shortcomings focusing on African countries see South African Institute of International Affairs, *Implications of COVID-19 for Climate Finance in Africa* (20 May 2021), at 6. [↑](#footnote-ref-20)
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23. Ibid, at xix. [↑](#footnote-ref-23)
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25. Ibid, at 4. [↑](#footnote-ref-25)
26. Ibid, at 21-22. [↑](#footnote-ref-26)
27. Ibid, at 21. This rights-based approach expressly relies, as indicated in footnote 64 of the report, on the *Analytical study on the relationship between climate change and the human right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, Office of the High Commissioner for Human Rights (6 May 2016). [↑](#footnote-ref-27)
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30. World Resources Institute (WRI), *Financing climate action and the COVID-19 pandemic: An analysis of 17 developing countries*. Working Paper (28 October 2021) [WRI, *Financing climate action*] [↑](#footnote-ref-30)
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45. Ibid, recommendation 1, action point 2; recommendation 8, action point 2; recommendation 9, action point 1. [↑](#footnote-ref-45)
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49. See *Study – Rights-based climate finance*, at paras. 6-10. [↑](#footnote-ref-49)
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59. See *Study – Rights-based climate finance*, at paras. 30-89. [↑](#footnote-ref-59)
60. See e.g. ICCPR, Art. 2(1); ICESCR, Art. 2(1). The legal authorities elaborating on this dimension are mentioned in note 74 below. [↑](#footnote-ref-60)
61. See, e.g. ICESCR, Art. 2(1). [↑](#footnote-ref-61)
62. *Study – Rights-based climate finance*, at paras. 31-43. [↑](#footnote-ref-62)
63. UNEP, *Are we building back better?*, at 4 and 6; WHO, *COP26 Special Report*, at 21. [↑](#footnote-ref-63)
64. ICCPR, article 25; Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, 25 June 1998, 2161 UNTS 447; ‘Rio Declaration on Environment and Development’, 13 June 1992, UN Doc. A/CONF.151/26. Rev.1, Principle 10; Decision SS.XI/5, Part A ‘Guidelines on Developing National Legislation on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters’, 26 February 2010, Doc GCSS.XI/11; Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, Escazú, 4 March 2018. [↑](#footnote-ref-64)
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71. WHO, *COP26 Special Report*, at 53; Glasgow Climate Pact, para. 36. [↑](#footnote-ref-71)
72. See Task Force on Climate-Related Financial Disclosures (TCFD), Implementing the Recommendations of the Task Force on Climate-Related Financial Disclosures (October 2021). [↑](#footnote-ref-72)
73. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory, ICJ Reports 2004, p. 136, paras. 108–113; *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, Provisional Measures, Order of 15 October 2008, ICJ Reports 2008, p. 353, para. 109; *Delia Saldias de Lopez v. Uruguay*, HRC Communication no. 52/1979 (29 July 1981), paras. 12.1 and 12.3; *Basem Ahmed Issa Yassin v Canada*, HRC Communication no. 2285/2013 (26 July 2017), para. 6.5; *General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, 30 October 2018, CCPR/C/GC/36, paras. 21-22; CESCR, General Comment 24, paras. 31-33; *General Comment No. 15: The Right to Water (arts. 11 and 12 of the International Covenant on Economic Social and Cultural Rights)*, E/C.12/2002/11, 20 January 2003, paras. 31-34; *General Comment No. 18: The Right to Work*, E/C.12/GC/18, 6 February 2006, para. 30; *General Comment No. 14: The Right to the Highest Attainable Standard of Health (article 12 of the International Covenant on Economic Social and Cultural Rights)*, E/C.12/2000/4, 11 August 2000, para. 39; Concluding Observations on Canada, CERD/C/CAN/CO/18, 25 May 2007, para. 17; *Association pour la sauvegarde de la paix au Burundi v. Tanzania, Kenya, Uganda, Rwanda, Zaire and Zambia*, Communication no. 157/96 (29 May 2003), para. 75; *Al-Skeini and Others v UK*, ECtHR Application no. 55721/07 (7 July 2011), paras. 130-140; *Jaloud v the Netherlands*, ECtHR Application no. 47708/08 (20 November 2014), para. 139; *Alejandre and Others v. Cuba* (1999), IACommHR Case 11.589, Report no. 86/99, paras. 23–25; *Ecuador v. Colombia* (2010), IACommHR, Inter-State Petition IP-02, Report no. 112/10, para. 91; *Advisory Opinion OC-23/17 of November 15, 2017, requested by the Republic of Colombia: The Environment and Human Rights (State obligations in relation to the environment within the framework of the protection and guarantee of the rights to life and to personal integrity – interpretation and scope of Articles 4.1 and 5.1 in relation with Articles 1.1 and 2 of the American Convention on Human Rights)*, paras. 101-102. [↑](#footnote-ref-73)
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243. See Guiding principles on foreign debt and human rights; Guiding principles on human rights impact assessments of economic reforms. Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights, 19 December 2018, A/HRC/40/57. [↑](#footnote-ref-243)
244. Yuefen Li – August 2021 Report, para. 22. [↑](#footnote-ref-244)
245. Guiding principles on foreign debt and human rights, para. 6. [↑](#footnote-ref-245)
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