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Submission to UN Special Rapporteur consultation on access to information on climate change and human rights

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About this submission

This is a response to a call for inputs issued by the United Nations Special Rapporteur on the promotion and protection of human rights in the context of climate change (see further p.3). The authors submitted this response to the UN on 21 June 2024. This version has been lightly edited prior to publication.

For more information about the call for inputs, visit www.ohchr.org/en/calls-for-input/2024/call-inputs-access-information-climate-change-and-human-rights. The views expressed in this submission represent those of the authors and do not necessarily represent those of the host institutions or funders. The authors declare no conflict of interest in the preparation of this report.

Introduction

This submission is made on behalf of the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science. It focuses on access to information on climate change and human rights in response to a call for inputs issued by the United Nations Special Rapporteur on the promotion and protection of human rights in the context of climate change to inform a forthcoming report the Special Rapporteur is writing on the specificities, challenges and good practices related to access to information on climate change and human rights. The submission has been informed by research conducted at the London School of Economics, including at the Grantham Research Institute, and is also based on the authors' established expertise in both access to information and in the law and governance of climate change and human rights.

Much of the research in this submission and in the publications cited herein has been conducted using the [Climate Change Laws of the World](#) database, which is maintained by the Grantham Research Institute and is the world's most comprehensive database on climate change legislation, litigation and public policy. The database is powered by machine learning and natural language processing technology developed by Climate Policy Radar.

This submission responds to questions 1, 2, 4, 5 and 6 as articulated by the Special Rapporteur. Our responses focus largely on legal and public policy instruments to address access to information on climate change and human rights, along with the role of global governance institutions and political factors inhibiting and enabling access to information, as these are the authors' areas of expertise.

General comments

Access to information has been long recognised as a key enabler for environmental protection and sustainable development (A/HRC/53/25). Principle 10 of the 1992 Rio Declaration on Environment and Development sets out the fundamental elements for good environmental governance in three 'access rights': access to information, public participation and access to justice (A/CONF.151/26). These are based on the experience that where governmental decision-making fails to include these essential tenets of access, it is more likely that outcomes will be environmentally damaging, developmentally unsustainable and socially unjust. This recognition has been widely acknowledged in other international and regional instruments, including the 2030 Agenda, Aarhus Convention, Escazu Agreement, and Article 16 of the Revised African Convention on the Conservation of Nature and Natural Resources, and also in national laws on access to information in more than 130 countries. The Office of the High Commissioner for Human Rights has issued detailed recommendations for states to make information available (A/HRC/49/38).

As the Rio Declaration and many commentators have subsequently found, however, access alone is not enough. It needs to be linked to public participation and mechanisms that ensure information is adequate, provide meaningful systems of engagement and enable enforcement. In addition, it is essential to ensure that civil society, journalists and other actors are able to access information and engage with decision-makers without facing physical or legal attacks (as set out in A/HRC/53/25, 73). This civil society action has been found to be crucial to reducing carbon emissions (see Pacheco-Vega and Murdie, 2021).

Responses

1. What kind of information should be collected and shared to identify and prevent negative impacts on human rights arising from climate change and climate change response measures? What kind of information can be particularly challenging to access and why?

Debates over information collection and access for preventing negative impacts arising from climate change and climate change response measures often emphasise disclosure of greenhouse gas (GHG) emissions data. Yet focusing solely on GHG emissions data is likely to be insufficient for understanding the drivers of climate change and how climate change contributes to adverse human rights impacts. Understanding emissions accounting and differing methodologies requires advice or expertise that may not be readily available to all stakeholders. An emphasis on high emitting activities as drivers of the problem, such as deforestation and fossil fuel production, would be more straightforward (Green and Kuch, 2022). Information on emissions and high emitting activities needs to be collected and made available from both state and non-state actors.

There is considerable variation in the types of information that can be challenging (or even impossible) to access, whether because governments or companies are not required to disclose the relevant information and do not wish to do so, or because the information is not systematically collected. For example, militaries are among the largest consumers of fossil fuels in the world, but these emissions have long been exempt from accounting rules in the international climate regime and are voluntary under the Paris Agreement. As a result, many national governments *exclude them* from data collection (or keep them secret under pretences of national security) and there is no consensus on a common accounting framework for military emissions (see Depledge, 2023). Yet armed conflict has potentially significant effects on climate change, as shown in a recent study on emissions from the ongoing conflict in Israel and Palestine (Neimark et al., 2024). These emissions arguably multiply the contributions of armed conflict to adverse impacts on human rights: while (allegedly or potentially) violating human rights in conflict zones, armed forces are also contributing to adverse human rights impacts that will be caused by future climate change, all without disclosing their emissions.

It is not just information on emissions and their causes that is required to prevent adverse impacts on human rights. The European Court of Human Rights (ECtHR) has underscored the importance of access to information regarding climate policy measures adopted by governments to implement their emissions reductions obligations, and progress towards meeting these obligations. In paragraph 554(a) of its judgment in the recent *KlimaSeniorinnen v. Switzerland* case, the ECtHR notes: “The information held by public authorities of importance for setting out and implementing the relevant regulations and measures to tackle climate change must be made available to the public, and in particular to those persons who may be affected by the regulations and measures in question or the absence thereof. In this connection, procedural safeguards must be available to ensure that the public can have access to the conclusions of the relevant studies, allowing them to assess the risk to which they are exposed.”

This need for transparency on policy measures taken to address climate change and the assessments underpinning them should also be applied in the context of adaptation. A better understanding of adaptation needs – including through climate change risk and vulnerability assessments, which underpin adaptation planning processes – is critical for identifying potential human rights impacts likely to arise from climate change and for developing adaptation strategies to prevent these impacts. There is an emerging national practice in climate adaptation planning, but gaps still exist (see IPCC, 2023). States must act to address these gaps. Recently, litigation has been brought regarding the full integration of human rights considerations into national adaptation plans and programmes, and the failure to consider the impacts of current adaptation plans on vulnerable groups such as people with disabilities (see *R(Jordan and Paulley) v. Secretary of State for Environment*). Assessments of the potential impacts of adaptation programmes on equality and human rights are vital to ensuring justice in adaptation.

Transparency is further needed regarding funding of adaptation initiatives. The international funds that support these efforts – including the Adaptation Fund and Green Climate Fund, along with the major international development banks that sponsor the funds – have adopted limited access to information policies that do not meet international standards and they do not routinely make available information about their activities (A/72/350).

2. Are existing approaches to collect, share and monitor information on climate change and human rights sufficient for the public to assess the magnitude of actual and potential negative impacts on their human rights, and the adequacy of States' responses to these risks? How can these approaches be improved?

We focus our response to this question on two types of institutions: expert advisory bodies and multistakeholder partnerships.

The role of independent expert advisory bodies

Recent research from the Grantham Research Institute highlights the role of independent expert advisory bodies in providing credible evidence and assessment of progress on state climate action (Averchenkova et al., 2024). Case studies of such bodies in Germany, Ireland and New Zealand demonstrate their impact on public and political debate. These bodies' regular assessment and reporting cycles create important windows for media attention and public debate by profiling the inadequacy of government responses to climate change risks. In these case study countries, interviewees noted that having regular assessments by independent advisory bodies strengthens the ability of climate-focused non-governmental organisations (NGOs) to orient their campaigning around clear points of reference (ibid.). Earlier research on the UK Climate Change Committee similarly found that independent advisory bodies can enhance climate governance by serving as impartial knowledge brokers and contributing to the evidence base for policymaking (Averchenkova et al., 2021).

The ability of independent advisory bodies to hold political decision-makers to account is, however, significantly affected by the scope and clarity of their mandates, resources and capacity, along with the strength of legal requirements for the respective government to consider and respond to their advice. The appointment process for members of such bodies is also critical for ensuring political independence. Independence in recruitment processes must be set out in statutory requirements establishing such bodies to strengthen their ability to provide depoliticised information on the adequacy of governmental responses to climate change.

The role of multistakeholder partnerships

Both state and non-state efforts to achieve sustainable development – including climate change and human rights protection – are often governed and implemented through multistakeholder partnerships that incorporate state actors or have support from public authorities, including international organisations. The UN and its Member States designed the 2030 Agenda such that its Sustainable Development Goals (SDGs) would be 'interdependent and indivisible', and called for such partnerships to produce synergies across the SDGs. This includes SDG 13 (climate action) and goals that have direct links to human rights – for example, SDG 4 (quality education), SDG 6 (clean water and sanitation) and SDG 5 (gender equality).

SDG partnerships should therefore in principle report on their efforts to integrate climate action with at least certain human rights using indicators specified in the 2030 Agenda. Thousands of these partnerships are registered on the SDG Actions Platform, where they generally disclose which SDGs they intend to work on – but frequently fail to disclose much additional information. Numerous studies show that SDG partnerships lack transparency and fail to report regularly on their activities. Scholars have found that less than one-fifth of all partnerships working on environmental SDGs have issued any progress reports at all; those that report more frequently view themselves as being more effective. There is even less reporting specifically on synergistic effects, and evidence that partnerships tend not to engage with trade-offs – i.e. they might disclose how they integrate climate action and human rights, but they often do not consider, let alone report on, how climate action may adversely affect human rights.

To improve transparency and thus access to information from governance initiatives such as SDG partnerships (which should reflect the broader universe of public-private partnerships), there is a need for clearer frameworks and standards, potentially supplied through meta-governance and orchestration by international organisations. The studies mentioned in this section and broader trends and policy recommendations on transparency in multistakeholder governance are discussed in more detail in a major new review article led by scholars at the Grantham Research Institute (Higham et al., 2024a).

4. Are there examples in which international cooperation effectively supported public access to information on climate change and human rights? What are the challenges in implementing UNFCCC Articles 4 (public access to information) and 6 (public awareness), and Paris Agreement Article 12 (public access to information), and other international instruments and processes that can support/contribute to international cooperation on access to information on climate change and human rights?

Although there are some examples of international cooperation on access to information, as mentioned in our general comments above, geopolitical contestation and divergent state preferences over what it means in practice to integrate climate change and human rights remain key challenges to implementing international instruments and processes that could enhance access to information on climate change and human rights.

Such challenges are illustrated by contestation over the 2030 Agenda for Sustainable Development. The 2030 Agenda comprises 169 targets and 231 unique indicators. Two of the targets address access to information, including one under SDG 9, which concerns expanding communications technologies and affordable internet access, and a more general target under SDG 16.10 on ensuring public access to information and protecting fundamental freedoms. The 2030 Agenda also establishes an online platform to facilitate access to information, sharing of best practice and lesson-learning. The integrated nature of the SDGs and their respective targets (see above) thus means in principle that UN Member States have cooperated in committing to the achievement of all the SDGs – including SDG 13 (climate action) and goals that relate to certain human rights – through the provision of greater access to information. This should mean climate change and human rights data is made more accessible to the public.

However, political contestation and multilateral gridlock within the UN system hinders the full realisation of this holistic approach. There is no global consensus among governments on what an integrated approach to the SDGs should look like in practice, and some states have fiercely contested efforts to link the SDGs to human rights. Even highly similar states have different perspectives and preferences on this matter. Contestation and divergence of preferences have in turn limited UN bodies' ability to provide adequate meta-governance of transnational governance initiatives that might enhance the effectiveness and accountability of actors committed to producing synergies across the SDGs – necessarily including access to information, climate action and certain human rights. Studies highlighting these observations and supporting these claims are included in the review article by Higham et al. (2024a) cited above.

5. Are there concrete examples of, or specific challenges for, business to communicate information on risks, including in different countries, in relation to climate change and human rights? What are the barriers for the rights holders to access to this information and to evaluate the adequacy of an enterprise's response to these risks? Are there specific examples of State regulation that have significantly improved access to information held by private actors on climate change and human rights?

Data on adverse human rights impacts have long been contested in general, and there is no universally accepted, systematic model for such data collection, especially in relation to business. In producing the UN Guiding Principles on Business and Human Rights (UNGPs) in 2011, John Ruggie, the former Special Representative of the Secretary-General on Business and Human Rights, sought to promote the use of indicators or metrics to measure adverse business-related impacts on human rights, which was a politically controversial effort. The UNGPs were therefore ultimately indeterminate about how companies should monitor and report on their human rights performance. Human rights metrics were not well established at that time, and there was little consensus on the legitimacy and accuracy of quantifying human rights impacts. Yet such metrics may be necessary to measure and disclose information about business (or state) impacts on human rights (Aaronson and Higham, 2013). These challenges largely persist today, although there have been some advances in efforts to benchmark corporate human rights performance over the past decade. There may be especially limited data available on climate-related human rights impacts, and we are not aware of specific human rights indicators related to climate change that offer global coverage or enjoy broad support, particularly in a business context.

Both voluntary and mandatory non-financial reporting standards may not always result in companies disclosing sufficient information. Such standards often adopt 'integrated' sustainability reporting, covering climate change and human rights together; they may therefore lead companies to collect and publish relevant information on climate-related adverse human rights impacts, but these areas are in practice more likely to be treated in silos. Relevant standards include the new [corporate sustainability reporting standards](#) adopted under the [EU Corporate Sustainability Reporting Directive \(CSRD\)](#) in 2023.

The [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#) draw on the UNGPs' concept of due diligence and provide a set of standards for extending it to climate change. The Guidelines were updated in 2023 to include explicit reference to climate change for the first time. The Guidelines include chapters on the Environment, Human Rights and Disclosure, in addition to other topics. Since the previous update of the Guidelines in 2011, the Environment and Disclosure chapters have specified that companies are responsible for providing clear, accurate and measurable information on their environmental impact. The Guidelines now clarify that users of financial information and market participants need information on climate-related risks, and that companies should adopt and align with "evolving disclosure standards" on climate change and GHG emissions. While the Guidelines are voluntary for companies, states are obligated to promote them and to establish quasi-judicial National Contact Points (NCPs) to investigate complaints of violations. Recent research from scholars at the Grantham Research Institute highlights that the 2023 update clarifies and emphasises "the importance of information accuracy and transparency and should enhance complainants' ability to contest suspected greenwashing activities by providing NCPs with an authoritative mandate to investigate such conduct with explicit reference to climate-related disclosures" (Aristova et al., 2024: 519).

The Guidelines indicate the responsibility of businesses to conduct risk-based due diligence in all areas of responsible business conduct, which now includes climate change. The Guidelines also delineate the human rights responsibilities of business, including the responsibility to conduct risk-based human rights due diligence. Although the 2023 update to the Guidelines makes passing reference to integrated approaches, the Guidelines still do not explicitly integrate climate change and human rights, which has been a significant limitation in holding companies accountable in many NCP cases to date. Thus, the Guidelines may be better positioned to facilitate business disclosure of information concerning climate-related human rights, but we have argued that the absence of an explicitly holistic approach is a missed opportunity for greater accountability and ensuring more complete access to information (ibid.).

The [EU's Corporate Sustainability Due Diligence Directive \(CSDDD\)](#) requires large companies to adopt transition plans aligned with the 1.5°C goal in the Paris Agreement and to conduct and report on risks identified through human rights and environmental due diligence. The CSDDD, which creates legally binding rules for companies that EU Member States will have to enforce by summer 2026, acknowledges the importance of the OECD Guidelines. However, like the Guidelines, the CSDDD adopts what is arguably a siloed approach to human rights and climate change, which could limit the information available to rights holders who are adversely affected by climate change to hold businesses accountable (Higham et al., 2024b). Article 19 of the CSDDD requires the European Commission, in consultation with Member States and other stakeholders (including the EU Agency for Fundamental Rights, the European Environment Agency, the European Labour Authority, and international organisations with expertise in due diligence) to issue practical guidance on transition planning within 36 months of the Directive entering into force. We note that the drafting of these guidelines presents a window of opportunity to force disclosure of adequate detail from private sector actors regarding climate-related human rights risks and how they plan to mitigate these risks. In addition to the CSDDD and CSRD, the [EU Directive on Empowering Consumers for the Green Transition](#) introduces rules to prohibit companies from misleading consumers into making unsustainable consumption choices (i.e. greenwashing).

These instruments draw on and complement further emerging global standards on net zero commitments. In response to growing concern about the integrity of corporate net zero pledges that were adopted in rapid succession around the time of the 2021 UN climate conference, COP26, many stakeholders, including the UN Climate Champions and UN High-Level Expert Group on Net Zero Emissions Commitments of Non-State Entities (HLEG), pressed for regulation of corporate net zero targets, rendering the global net zero goal a matter of individual compliance. The HLEG's final recommendations are largely harmonised with the revised OECD Guidelines and with the ISO Net Zero Guidelines. One of the HLEG's key recommendations is on "increasing transparency and accountability" and includes enhanced disclosure of non-state actors' GHG emissions and other information on their net zero targets and climate practices. We have previously submitted to the HLEG that any standards on net zero should include stronger transparency rules, covering not only emissions data but also financial information (Higham et al., 2022).

We have also observed a growing agenda in voluntary corporate initiatives for 'just transition' indicators, which seek to assess companies on both their alignment with the Paris Agreement and their approach to addressing the social challenges associated with the low-carbon transition. For example, the [World Benchmarking Alliance](#), which aims to provide indicators on companies' role in advancing the SDGs, now has a separate 'just transition assessment'. Similarly, the UK's [Transition Plan Taskforce](#) (set up after COP26) provides guidance on disclosure by companies and financial institutions on anticipating, assessing and addressing the social risks and opportunities of the transition to a low-emissions and climate-resilient society. These initiatives may facilitate increased transparency from non-state actors on risks and impacts of their activities on climate change and human rights, tackling some of the silos we mention above.

At the Grantham Research Institute, we track developments on mandatory regulation of corporate actors as part of our work maintaining the [Climate Change Laws of the World](#) database (see Chan and Higham, 2023). Our ongoing research has provided some examples of state regulation requiring disclosure of transition planning and underlying evidence for 'green' claims. [Legislation in Greece from 2022](#), for example, requires businesses to submit annual reports to a public e-database, disclosing their carbon footprints and elaborating how they plan to reduce or offset their emissions voluntarily. The majority of domestic laws that contain economy-wide net zero (or equivalent) targets also reserve authority for environmental agencies and similar government bodies to request or collect emissions data from companies for the purpose of collating national emissions statistics – for example, in [Germany](#).

Recommendations

- States should specifically prohibit the publication of misleading corporate materials, information or data (i.e. greenwashing).
- States should set detailed standards for corporate and government data, including on military emissions, that are based on open standards to ensure they are comparable and interoperable. It may also be necessary to ensure centralisation of data management systems.
- States should take legal, administrative and other measures to ensure that civil society organisations, journalists and others are not subject to physical attacks or legal harassment (e.g. through strategic litigation against public participation [SLAPP] lawsuits).
- International organisations should play a stronger role in governing multistakeholder initiatives for climate action and sustainable development by strengthening transparency and accountability frameworks.
- States, international organisations and multistakeholder initiatives focused on standardising sustainability reporting should explore ways to integrate the climate and human rights dimensions of corporate reporting.
- International financial institutions and climate funds should revise their existing access to information policies to limit exemptions. They should also comprehensively publish information on the projects they are considering and funding, and focus on ensuring information is accessible to the communities they are intended to help.

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