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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on ecological crisis climate justice and racial justice

Note by the Secretary-General**

The Secretariat has the honour to transmit to the General Assembly the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, E. Tendayi Achiume, prepared pursuant to General Assembly resolution 43/36.

* A/77/150.

** The present report was submitted after the deadline in order to reflect recent developments.

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Summary

In the present report, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance highlights the racially discriminatory and unjust roots and consequences of environmental degradation, including climate change. This report explains why there can be no meaningful mitigation or resolution of the global ecological crisis without specific action to address systemic racism, in particular the historic and contemporary racial legacies of colonialism and slavery.

I. Introduction

1. The global ecological crisis is simultaneously a racial justice crisis. As countless studies and submissions received show, the devastating effects of ecological crisis are disproportionately borne by racially, ethnically and nationally marginalized groups—those who face discrimination, exclusion and conditions of systemic inequality because of their race, ethnicity or national origin. Across nations, these groups overwhelmingly comprise the residents of the areas hardest hit by pollution, biodiversity loss and climate change.¹ These groups are disproportionately concentrated in global “sacrifice zones”—regions rendered dangerous and even uninhabitable due to environmental degradation. Whereas sacrifice zones are concentrated in the formerly colonized territories of the Global South, the Global North is largely to blame for these conditions. As noted by the Special Rapporteur on the environment: “[h]igh-income States continue to irresponsibly export hazardous materials ... along with the associated health and environmental risks, to low- and middle-income countries[.]”² Notably, the distinction between “high-income” and “low-income” countries is directly related to the racist economic extraction and exploitation that occurred during the colonial era, for which colonial powers have not been held accountable.³

2. “Sacrifice zones,” as illustrated in this report, are more accurately described as “racial sacrifice zones.” Racial sacrifice zones include the ancestral lands of indigenous peoples, territories of the Small Island Developing States (SIDS), racially segregated neighborhoods in the Global North, and occupied territories facing drought and environmental devastation. The primary beneficiaries of these racial sacrifice zones are transnational corporations that funnel wealth, towards the Global North, and privileged national and local elites globally.⁴

3. In addition to documenting racial sacrifice zones, the Special Rapporteur highlights coerced displacement and immobility in the context of ecological crisis and how racially, ethnically and nationally marginalized groups are disparately subjected to this coercion and immobility. Submissions received show how climate-induced migration cannot be divorced from the racially unjust hierarchies and regimes of colonial and imperial extraction and exploitation that have significantly determined who is forced to move and who has the privilege of keeping their homes and nations.

4. Within the broader movement for environmental justice, climate justice seeks historical accountability from those nations and entities responsible for climate change. Climate justice also seeks radical transformation of the contemporary systems that enable global ecological crisis, and distribute the suffering associated with this crisis on a racially discriminatory basis. Because climate change today is driven by the accumulation of greenhouse gases in the atmosphere, historical emissions are an existential contemporary problem. Between 1850 and 2002, industrialized countries produced three times the carbon dioxide produced by the entire Global South.⁵ Yet it is the Global South, and colonially designated non-white regions of the world that are most affected and least able to mitigate and survive global ecological crisis, in significant part due to the colonial processes that caused historical emissions in the first place.

5. The U.N. Secretary General, appropriately described the recent flooding in Pakistan as “a level of climate carnage beyond imagination,” noting that Pakistan is responsible for

¹ Due to space constraints this report focuses on environmental human rights harms related to extractivism and climate change. The Special Rapporteur highlights the urgency of a broader and more comprehensive analysis of the intersection of environmental and racial justice.

² A/HRC/49/53.

³ A/HRC/50/60; A/HRC/41/54.

⁴ A/HRC/50/60. CESR Submission.

⁵ J. Dehm ,S. Riley-Case, “Redressing Historical Responsibility for the Unjust Precarities of Climate Change in the Present,” <https://ssrn.com/abstract=3658437>.

less than one percent of global greenhouse emissions. One country—the United States is responsible for 20% of total cumulative carbon dioxide emissions.⁶ The European Union is responsible for 17%, and 90 transnational corporations predominantly headquartered in the Global North are responsible for 63% of cumulative industrial emissions from 1751 to 2010.⁷

6. As experts note, Global North historical emissions did not benefit all equally. Instead, their production relied upon and enabled racist colonial subordination in the Global South, and in the settler colonies of the Global North. Inequity persists in the present. According to one submission, the average person’s carbon dioxide emissions in the United Kingdom over a two-week period is more than a resident of Malawi, Ethiopia, Uganda, Madagascar, Guinea or Burkina Faso will emit in a year. Africa’s energy-related emissions account for about 2% of global emissions, but it is likely to shoulder almost 50% of the estimated global climate change adaptation costs. As noted by the president of the African Development Bank, Africa should not have to beg for help to address climate change—polluting global powers should have to pay.⁸ The same is true for other parts of the Global South.

7. Both within and outside the United Nations, Member States are championing initiatives to develop responses to the global ecological crisis. In this context, a racial justice approach to this crisis is both urgent and necessary, and yet within the global framework it remains thoroughly marginalized. Notwithstanding the important efforts of environmental justice advocates globally, the Special Rapporteur finds that those with authority, control, influence and decision-making power within the global climate governance regimes have largely neglected racial equality and non-discrimination norms that are foundational to international human rights and the international order more broadly. To put it bluntly, the interests and concerns of non-white peoples in particular have been successfully sidelined within UN frameworks for coordinating the global response to ecological crisis. The predominant global responses to environmental crises are characterized by the same forms of systemic racism that are driving these crises in the first place. Environmental, climate and racial injustice are the institutionalized status quo.

8. “Techno-chauvinism”, the conviction that technology can solve all societal problems, and over-reliance on market-based solutions in responses to climate change are reinforcing racial injustice. The reasons for this relate in part to how technocratic and technological fields, and the global capitalist economy remain characterized by forms of systemic racism that are then reproduced even in well-intentioned “green” initiatives.⁹ Due to space constraints, the Special Rapporteur refers readers to her prior analyses of systemic racism, technology, and global political economy.¹⁰ Technology has a critical role to play in addressing the ecological crisis, but technological solutions should neither be implemented at the expense of the racially and ethnically marginalized groups that are already disproportionately impacted by ecological crisis, nor advanced in pursuit of “false solutions.”¹¹

9. The Special Rapporteur acknowledges references to vulnerability or “vulnerable groups” generally in environmental human rights analysis. She stresses the normative and pragmatic urgency of engaging racism, racial discrimination, and racial injustice explicitly and directly. The Special Rapporteur has warned of the dominance of “colour-blind” approaches to global governance and political economy, including human rights analyses and responses. A colour-blind analysis of legal, social, economic and political conditions

6 Ibid.

7 Ibid.

8 Cara Anna, “Africa shouldn’t need to beg for climate aid, says bank president”, 2020.

9 Dehm, Sealey-Huggings, Gonzalez Submissions.

10 A/HRC/44/57, A/HRC/50/60, A/HRC/41/54.

11 D’sa, Bond Submission.

professes a commitment to an even-handedness that entails avoiding explicit racial analysis in favour of treating all individuals and groups the same, even if these individuals and groups are differently situated, including because of historical projects of racial subordination.¹² Even when colour-blind approaches are well-intentioned, their ultimate effect is failure to challenge and dismantle persisting structures of entrenched racial discrimination. The Special Rapporteur emphasizes that in order to address the racially and ethnically disparate impacts of ecological crises, UN Member States, officials and other stakeholders must explicitly account for these impacts.

10. The General Assembly and Human Rights Council have recognized the human right to a clean, healthy and sustainable environment,¹³ and the Human Rights Council has noted the human rights impacts of climate change in a number of resolutions. OHCHR and various Special Procedures of the Human Rights Council have produced vital human rights knowledge, upon which this report builds.¹⁴ They have highlighted equality and non-discrimination concerns, especially in relation to gender¹⁵, age¹⁶, disability¹⁷, sexual orientation and gender identity,¹⁸ indigenous people¹⁹ and people of African descent.²⁰

11. The Special Rapporteur benefited from valuable input from expert group meetings and additional submissions from targeted calls; interviews with representatives of U.N. agencies; and submissions from a range of stakeholders in response to a public call. She thanks all stakeholders for their submissions. Non-confidential submissions will be available on the website of the mandate. The Special Rapporteur emphasizes that the expertise of directly affected communities was invaluable in the preparation of her report.

II. Why Ongoing Climate and Environmental Crises Require Racial Equality and Justice Lenses

A. Racist Colonial Foundations of Ecological Crisis

12. Systemic racism served as a foundational organizing principle for the global systems and processes at the heart of the climate and environmental crises. Understanding and addressing contemporary climate and environmental injustice alongside the racially discriminatory landscape requires an historicized approach to how “race” and racism have shaped the political economy of climate and environmental realities, as well as the governing legal frameworks and worldviews these frameworks represent. At the center of the climate crisis are levels of greenhouse emissions that are the product of centuries of natural resource extraction, industrialization and industrial processes, and consumption of the outputs of these processes.²¹ In their submissions, a number of experts summarized a

¹² A/HRC/41/54, para. 14.

¹³ A/RES/76/300, A/HRC/RES/48/13.

¹⁴ <https://www.ohchr.org/en/climate-change/reports-human-rights-and-climate-change>; A/74/161; A/HRC/31/52; A/HRC/49/53; A/HRC/41/39; A/71/281; A/66/285; A/75/207; A/67/299; A/HRC/44/44; A/76/222; A/HRC/48/56; A/HRC/40/53; A/74/164; A/70/287; A/HRC/47/43

¹⁵ A/77/136.

¹⁶ A/HRC/37/58; A/HRC/42/43.

¹⁷ A/71/314.

¹⁸ OHCHR, Special Procedures Joint Statement, “Forcibly displaced LGBT persons face major challenges in search of safe haven”, 2022.

¹⁹ A/77/238.

²⁰ A/HRC/48/78.

²¹ Gonzalez Submission.

rich body of research that charts the racist colonial regimes that underpinned the extraction of coal, gas and oil, forged a global capitalist system dependent on the maintenance of racial hierarchies, and that are thus at the heart of the global ecological crisis.²² In her 2019 Global Extractivism report, the Special Rapporteur also outlined the racist colonial foundations of the extractivist and industrialization processes that have caused the global ecological crisis.²³

B. Contemporary Manifestations of Transnational Environmental Racism and Climate Injustice

13. The formal international repudiation of colonialism has by no means eradicated colonial domination and its racist legacies, including as they relate to the contemporary global ecological crisis. The Special Rapporteur on the environment has highlighted that although all humans are exposed to ecological crisis, the burden of this crisis falls disproportionately on systemically marginalized groups, and that many environmental injustices are rooted in “racism, discrimination, colonialism, patriarchy, impunity and political systems that systematically ignore human rights.”²⁴

14. Peoples in formerly colonized territories who were racially designated as non-white bear the disproportionate environmental burdens of extraction, processing and combustion of fossil fuels.²⁵ In her 2019 report on Global Extractivism and Racial Equality, the Special Rapporteur explained how the contemporary global extractivism economy remains racially stratified because of its colonial origins and the ongoing failure of Member States—especially those who benefitted the most from colonial domination—to decolonize the international system and provide reparations for racial discrimination rooted in slavery and colonialism.²⁶

15. The territories subject to the most rapacious forms of extraction are those belonging to groups and nations that were colonially designated as racially inferior. The nations least capable of mitigating and responding to ecological crisis have been rendered so, both by histories of colonial domination, and in the postcolonial era by externally neoliberal and other economic policies.²⁷ In the Global North, racially and ethnically marginalized groups are similarly on the frontlines.

16. The WGEPAD has detailed how environmental racism and the climate crisis have disproportionately affected people of African descent, due in part to racialized histories of colonial domination, the trade in enslaved Africans, and systematic discrimination against and segregation of people of African descent.²⁸ The Special Rapporteur on the rights of indigenous peoples has shed a similar light on environmental racism and climate injustice as they affect the lives and very existence of indigenous peoples.²⁹ A number of

²² E.g., Dehm, Gonzalez, and Sealey Huggins (including “Confronting Justice: Racism and the Environmental Emergency” Report) Submissions.

²³ A/HRC/41/54.

²⁴ A/HRC/49/53.

²⁵ Gonzalez Submission.

²⁶ A/HRC/41/54; A/74/321.

²⁷ A/HRC/50/60.

²⁸ A/HRC/48/78.

²⁹ A/HRC/36/46; A/HRC/4/32.

submissions highlights the ongoing racially disparate effects of the ecological crisis and its drivers, some of them highlighting colonial legacies.³⁰

17. Highlighting the salience of colonial legacies should not eclipse the role played by powerful countries in the Global South in producing contemporary greenhouse emissions, and fueling environmental degradation. China, Brazil, and India are among the top global carbon dioxide emitters. Transnational and cross-border activities within the Global South bring their own set of geopolitical and environmental challenges. For example, China's Belt and Road Initiative in Africa entails industrial megaprojects linked both to African debt entrapment and environmental degradation,³¹ and in some places irreparable ecological damage.³²

Race, Ethnicity, National Origin and "Sacrifice Zones"

18. The term "sacrifice zones" is derived from a designation used during the Cold War to describe areas irradiated due to production of nuclear weapons.³³ Racially marginalized and formerly colonized peoples were among those whose communities were disproportionately "sacrificed" to the demands of nuclear proliferation, as prominently illustrated by the impacts of nuclear testing on the people of the Marshall Islands, as well as indigenous peoples and ethnic minorities living in territories controlled by military superpowers.³⁴

19. According to the Special Rapporteur on the environment, "[t]oday, a sacrifice zone can be understood to be a place where residents suffer devastating physical and mental health consequences and human rights violations as a result of living in pollution hotspots and heavily contaminated areas."³⁵ Climate change is driving the proliferation of sacrifice zones,³⁶ which in many places are, in effect, racial sacrifice zones.

20. In the Amazon and elsewhere in South America, indigenous environmental human rights defenders are frequently targeted for persecution for protesting industrial projects that destroy their homelands. In several cases, environmental protectors have been threatened or murdered for their advocacy.³⁷ At the same time, according to one submission, environmental disruption caused by development mega-projects in Brazil, for example, threaten long-time Quilombola and indigenous communities.³⁸

³⁰ Maat for Peace Heinrich Böll Foundation; European Network Against Racism (ENAR); Black Coalition for Rights; Global Justice Clinic; Sabantho Aderi (Lokono-Arawak); Gonzalez. Submissions.

³¹ OHCHR, *Baseline Study on the Human Rights Impacts and Implications of Mega-Infrastructure Investment*, 2017.

³² J. Gu, S. Qui, "The Belt and Road Initiative and the SDGs: Towards Equitable, Sustainable Development", *IDS Bulletin*, 50(4), 2019.

³³ Steve Lerner, *Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States* (2010), p. 2.

³⁴ J. B. Threet, "Testing the Bomb: Disparate Impacts on Indigenous Peoples in the American West, the Marshall Islands, and in Kazakhstan", *University of Baltimore Journal of Environmental Law*, 13(1), 2005.

³⁵ A/HRC/49/53.

³⁶ *Ibid.*

³⁷ OHCHR, "Colombia: Extreme risks for rights defenders who challenge corporate activity" August 2022; A/HRC/46/35; IACHR, "IACHR and UN Human Rights Condemn Murders of Environmental Activists and Quilombolas in Brazil", 2022.

³⁸ Brazilian Black Coalition for Rights Submission.

21. In South Asia, indigenous peoples and those subject to caste-based discrimination face environmental devastation from development projects over which they have limited free, prior and informed consent. In Indonesia, the legacy of colonial-era racist urban planning, combined with excessive ground water extraction and pro-capital adaptive responses subject low-income residents of Kampung in Jakarta to flooding and to the threat of forced displacement.³⁹ Throughout Southeast Asia, rampant industrial activity has transferred the harms of environmental degradation and toxic waste from industrial hotspots in the Global North to non-white communities in the Global South.⁴⁰

22. A number of submissions highlighted the prevalence of racial sacrifice zones in the United States.⁴¹ For example, “Cancer Alley” is a petrochemical corridor along the Mississippi River, where 150 petrochemical facilities operate. With a predominantly African American population, it is a region with the highest rates of multiple forms of cancers in the United States. Racist legacies loom large over Cancer Alley. It was originally called Plantation Country, a place where enslaved Africans were forced to labour. New facilities like the “Sunshine Project” stretch over at least four ancestral burial grounds and are concentrated in the Fifth District, whose residents are 86.3% African American. The land use plan for the District has been changed from “residential” to “residential/future industrial” without notice, allowing for one of the largest plastics facilities to be approved. By contrast, chemical companies are barred from constructing new facilities in the Third District, whose residents are 78.4% white.⁴²

23. A 1987 study revealed a nationwide pattern, with racially marginalized communities in the United States were five times more likely than white communities to live near toxic waste.⁴³ As a submission notes, these disparities cannot be explained solely on the basis of income inequality: An in-depth study in 2008 found that Black people in the U.S. with an annual household income of 50,000 to 60,000 U.S. dollars live in neighborhoods subject to greater pollution than the average white people with household incomes under 10,000 dollars.⁴⁴

24. One submission reported that in Canada, the Aamjiwnaang First Nation is surrounded by Sarnia, Ontario’s so-called “Chemical Valley”. Residents experience low air quality and high rates of negative health outcomes, such as miscarriages, childhood asthma, and cancer.⁴⁵

25. Throughout Europe, Roma communities are forced to live near hazardous waste sites or in areas that are prone to climate change-related disasters, often to make way for industrial development or tourism. At the same time, Irish Travellers often lack access to culturally-specific accommodation and are denied reliable access to water, affordable

³⁹ M. Kooy, K. Bakker, “Splintered Networks: The Colonial and Contemporary Waters of Jakarta”, *Geoforum*, 39(6), 2008; J. F. Warner, H. Wiegel, “Displacement Induced by Climate Change Adaptation: The Case of ‘Climate Buffer’ Infrastructure”, *Sustainability*, 13(16), 2021; K. Goh, “Urban Waterscapes: The Hydro-Politics of Flooding in a Sinking City,” *43 International Journal of Urban and Regional Research*, 2019.

⁴⁰ B. Cotta, “What goes around, comes around? Access and allocation problems in Global North–South waste trade”, *International Environmental Agreements: Politics, Law and Economics*, 20, 2020.

⁴¹ Ms. Shirley and Heinrich Böll Foundation Submissions.

⁴² HRAP Submission; JAL USA 33/2020.

⁴³ United Church of Christ, *Toxic Wastes and Race in the United States – A National Report on the Racial and Socio-Economic Characteristics of Communities with Hazardous Waste Sites*, 1987.

⁴⁴ L. Downey, B. Hawkins, “Race, Income, and Environmental Inequality in the United States. *Sociological Perspectives*”, 51(4), 2008.

⁴⁵ MAAT for Peace Submission; A/HRC/49/53.

heating and electricity.⁴⁶ In the Arctic, indigenous peoples such as the Inuit and Sami are faced with rising sea levels and the total destruction of their livelihoods due to changing climate patterns.⁴⁷

26. One submission⁴⁸ noted that European research on environmental justice focuses almost exclusively on the issue of income inequality. Race and ethnicity are largely absent, and data disaggregated on these bases is not collected. The submission provided examples of such omissions in Germany, notwithstanding the persisting evidence of environmental racism against Rom*nja and Sinti*zza. The submission further notes that a number of German studies reveal that polluting industries are more frequently located in cities and neighborhoods with higher proportions of migrants. These national and European studies show the correlation between a migration background or non-German citizenship and environmental pollution is more significant than the correlation between socio-economic status or income and environmental pollution.

27. One submission reported that in the United Kingdom, racially and ethnically marginalized groups are disproportionately subjected to higher levels of air pollution than white British people, and more susceptible to pollution health impacts. Furthermore, the placement of waste incinerators disproportionately affects racially and ethnically marginalized groups.⁴⁹

28. One submission⁵⁰ reported how Israel's military occupation of the Occupied Palestinian Territories contributed to the ecological devastation and transformation of the Palestinian territories, and continues to deny Palestinians their fundamental right to self-determination, including regarding indigenous Palestinian approaches to mitigating climate impacts. Israeli settler expansion into Palestinian territories has led to the destruction of hundreds of Palestinian villages.⁵¹ In addition to the devastation caused by this destruction, native trees have been eliminated in favour of European pine trees. The submission reported tax incentives that encourage high polluting industry to relocate to the OPT, with immense, documented genotoxic effects for Palestinian residents. Furthermore, the submission reported the pretextual use of environmental considerations to justify further Israeli settlement of the OPT.

29. Extensive pollution of the air and water has also caused the higher incidence of serious diseases among Palestinians. Environmental protection policies have allegedly been used to justify the use of land by occupation authorities. The submission reports that Israel has been using the claim of protecting nature reserves to confiscate more land for the purpose of building additional settlements, via a practice which has been described as 'greenwashing'. Furthermore, it reports that 91% of the total water of the West Bank is being expropriated solely for Israeli settler use, while Palestinians face serious water insecurity.⁵² OHCHR has reported that: "Israeli authorities treat the nearly 450,000 Israeli settlers and 2.7 million Palestinians residing in the West Bank (excluding East Jerusalem) under two distinct bodies of law, resulting in unequal treatment on a range of issues

⁴⁶ ENAR Submission.

⁴⁷ Ibid.

⁴⁸ Heinrich Böll Foundation Submission.

⁴⁹ Sealey Huggins Submission ("Confronting Justice: Racism and the Environmental Emergency" Report).

⁵⁰ Al-Haq Submission.

⁵¹ JAL ISR 2/2022.

⁵² Al-Haq Submission.

including access to water.”⁵³ Indeed, Israel’s practices and policies in the OPT amount to apartheid,⁵⁴ with extreme environmental and human rights consequences for Palestinians.

30. One submission noted that the historical legacy of militarized occupation and neo-colonial extraction also plays a key role in the climate vulnerability of States in Central America and the Caribbean. A deadly history of intervention, neo-liberal coercion and unequal relationships between Latin America and military superpowers, particularly the United States, has rendered this region particularly vulnerable to climate change slow-onset disasters.⁵⁵ In the Caribbean, farmers and peasants are confronted with catastrophic changes in the weather that make agricultural labour increasingly difficult and that predominately affect poor farmers and rural women.⁵⁶ In Central America, climatic changes have led to violence and climate migration, often through dangerous climate pathways, defined by racialized exclusion, in North America.⁵⁷

31. In the Middle East, colonial and neo-colonial invasions and military interventions have been motivated in large part by the extensive reserves of fossil fuels in that region. States and transnational corporations of the Global North have collaborated with authoritarian elites to extract and exploit the region’s fossil fuels – contributing to climate change and perpetuating human rights violations against local communities and racially marginalized migrant laborers.⁵⁸

32. Across the African continent, extractive projects and toxic waste dumping have wreaked havoc on natural environments,⁵⁹ as African States, with arid ecosystems, struggle to maintain local livelihoods in the midst of climate change.⁶⁰ A submission reported the prevalence of sacrifice zones in Africa, including the example of Kabwe in Zambia, which is among the most polluted places in the world due in part to abandoned mining residue. According to estimates, more than 95% of children living there have elevated levels of lead in their blood.⁶¹ Another submission highlighted communities’ decades-long battles against transnational corporations for pollution from offshore oil and gas drilling, and ever-leaking petrol pipelines in Durban, South Africa.⁶²

33. Small Island Developing States (SIDS) face extreme risks, as rising sea levels, intensifying natural disasters and the destruction of natural ecologies threaten lives and livelihoods.⁶³ The Multidimensional Vulnerability Index, a newly developed metric measuring the economic, geographic, financial and environmental vulnerabilities of SIDS, put the average score of SIDS 50 to 60% higher than the global average, indicating a starker vulnerability than would be implied by income levels.⁶⁴ For SIDS, the global

53 A/HRC/48/43.

54 A/HRC/49/87.

55 Gonzalez Submission.

56 Haitian Civil Society Consultation; Sealey-Huggins Submission.

57 Sabantho Aderi (Lokono-Arawak) and Global Justice Clinic Submissions.

58 Gonzalez Submission.

59 Amnesty International, “Trafigura: A Toxic Journey”, 2016.

60 IPCC WGII AR-6.

61 Maat for Peace Submission.

62 D’sa, Bond Submission.

63 IPCC WGII AR-6, chapter 15.

64 UNDP, *Towards a Multidimensional Vulnerability Index: Discussion Paper*, 2021.

ecological crisis is predicted to wipe out some of their territories before the end of the 21st century.⁶⁵

Race, Ethnicity, National Origin and Climate-Induced Displacement

34. As the Special Rapporteur has detailed in prior reports, racial and xenophobic discrimination are root causes of forced displacement, but they also significantly determine who can move within and across borders, and who is immobilized against their will.⁶⁶ This is true in the context of environmental and climate induced displacement.⁶⁷ Manifestations of environmental racism and climate injustice include forced displacement as well as the *inability* of racially marginalized peoples to flee contamination hot spots or areas of escalated natural disaster risk.

35. According to UNHCR, 90% of refugees and most IDPs come from highly climate vulnerable countries.⁶⁸ At the same time, highly climate vulnerable countries host over 40% of refugees, while IDPs in conflict-affected and climate vulnerable countries are often displaced to areas where they are exposed and vulnerable to climate-related hazards.⁶⁹ The risk for refugees and IDPs is two-fold: on the one hand, settlements are disproportionately concentrated in regions that are exposed to higher-than-average warming levels and specific climate hazards, including temperature extremes and drought; on the other hand, these populations frequently inhabit settlements and legal circumstances that are intended to be temporary but are protracted across generations, all the while facing legal and economic barriers in their ability to migrate away from climate impacts. Large concentrations of these settlements are in the Sahel,⁷⁰ the Near East and Central Asia,⁷¹ where temperatures will rise higher than the global average, and extreme temperatures will exceed thresholds for safe habitation. Many refugees are racially and ethnically marginalized people. Systemic racism in international border regimes constrains the movement of racially marginalized peoples, while allowing citizens of the Global North unprecedented autonomy to travel, migrate⁷² and avoid environmentally unsafe areas. With climate change being framed as a security issue, security corporations and other actors are contributing to border militarization that further prevents many displaced by climate conditions from finding safety.⁷³ Within countries, spatial segregation and discrimination in housing or economic opportunities traps racially marginalized communities in specific locations within the country.⁷⁴

36. A number of submissions highlighted forced displacement from racial sacrifice zones, as well as the racist and xenophobic treatment of migrants and refugees who are able and choose to leave. According to one submission,⁷⁵ climate change is increasing

⁶⁵ Ibid.

⁶⁶ A/HRC/38/52, A/HRC/48/76, A/75/590, A/HRC/44/57, A/HRC/35/41.

⁶⁷ C. Gonzalez, "Climate Change, Race, and Migration", *Journal of Law and Political Economy*, 109, 2020.

⁶⁸ UN News, "Climate change link to displacement of most vulnerable is clear: UNHCR", April 2021.

⁶⁹ Based on analysis of available data of the Internal Displacement Monitoring Center Global Internal Displacement Database and the Notre Dame Global Adaptation Initiative (ND-GAIN) Country Index.

⁷⁰ UNHCR, "Decade of Sahel conflict leaves 2.5 million people displaced", 2022.

⁷¹ UNHCR, "Displaced on the frontlines of the climate emergency", 2021.

⁷² E.T. Achiume, "Racial Borders", *The Georgetown Law Journal*, 110(445), 2022.

⁷³ Francis Submission.

⁷⁴ A/HRC/49/48.

⁷⁵ Global Justice Clinic Submission.

displacement and migration to urban areas and out of Haiti, due to negative economic impact to the livelihoods of farmers. Racism limits Haitians' freedom of movement, limiting their ability to escape climate harms through dignified migration. In the United States, Haitians are targeted for deportation under Title 42, which has been used to detain and exclude Haitian migrants at the border.⁷⁶

37. According to one submission,⁷⁷ in Mozambique, the expansion of large international mining projects has intensified; and they have been a main source of socio-environmental conflicts causing internal displacement. 1,365 families from the communities of Mithethe, Chipanga, Bagamoyo and Malabue were displaced by a coal exploration project operated by the Brazilian multinational Vale in Moatize, Tete province. The treatment of displaced populations by multinational companies in the region mimic violent colonial practices. The decision to implement the project was imposed upon the affected communities, who were excluded from decision-making, and subject to police intimidation. Most of the population harmed by transnational corporations are peasants, low-income, indigenous peoples, and racially marginalized groups. Locals live in constant fear of reprisals for speaking against the company.

38. Another submission⁷⁸ highlighted the long history of racism in the agricultural sector in the United States, which includes the forceful removal of Native Americans from their homelands, enslaving Africans and their descendants, and exploiting Latinx farmworkers under inhumane conditions. Federal and state policy has historically favored white men, with some states blocking reparations or ownership of land by non-white individuals. White individuals own 98% of farmland while 80% of the labor force is Latinx. Homestead acts have disproportionately given subsidized farms to white individuals and corporations while the federal government has discriminated in lending to non-white farmers. The Southern landowners' efforts to exclude Black sharecroppers from the New Deal legislation during the Great Depression began an enduring phenomenon known as "agricultural exceptionalism," a systematic exclusion of farmworkers from federal labor protections, such as the National Labor Relations Act and Fair Labor Standards Laws. According to the submission, climate change is forcing more people to migrate and increasing the number of individuals seeking work in the United States. Yet, over half of farmworkers lack immigration status, and those who come legally are vulnerable to abuse. Workers are commonly subjected to poor wages and unsafe working conditions.

39. One submission⁷⁹ reported that in Central America and Mexico, indigenous and black communities have been involuntarily displaced by their disparate exposure to the impacts of extractivism and their general socio-economic marginalization. According to the IOM, Central America is at great risk of hydro-meteorological events related to climate change. The level of risk of humanitarian crises and disasters in six out of the seven countries in the region, namely Haiti, Honduras, Mexico, Nicaragua, Cuba and El Salvador are at medium and high levels.⁸⁰ There are no effective policies in place to protect displaced people, and their human rights are further jeopardized by racial and ethnic criminalization when they attempt to migrate. Indigenous, non-Spanish-speaking and black migrants face barriers in accessing jobs, education, health and housing services due to institutionalized discrimination.

40. Many submissions to the Special Rapporteur noted that indigenous peoples faced the prospect of being forced out of their ancestral and traditional homelands due to rising sea levels and natural disasters. One submission reported that in India, indigenous peoples

⁷⁶ JAL USA 27/2021.

⁷⁷ Eusébio Submission

⁷⁸ Florida State University, University of Bologna and Bread for the World USA Submissions.

⁷⁹ Observatorio de Racismo en México y Centroamérica Submission.

⁸⁰ IOM and SICA, *La movilidad humana derivada de desastres y el cambio climático en Centroamérica – Guatemala*, 2021.

account for 40-50% of those displaced despite making up just 8% of the total population.⁸¹ The disruptive impacts of industrial projects in their territories are a main cause. Entire indigenous territories, particularly those in the SIDS, are at risk, and even the full-scale relocation of entire State populations will not rectify the fallout of the destruction of their islands.⁸² The permanent loss of indigenous homelands is and will remain a massive global failure and a deep racial injustice in the absence of urgent rectificatory action.

III. Racially Discriminatory Environmental Human Rights Violations

A. Applicable Legal Frameworks

41. Non-discrimination and the prohibition on racial discrimination are peremptory norms of public international law.⁸³ Non-discrimination and equality obligations are also broadly enshrined in international human rights treaties including the ICCPR, ICESCR, ICEDAW, ICRC, and the ICRPD.⁸⁴

42. The most comprehensive prohibition of racial discrimination can be found in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). In article 1 (1), racial discrimination is defined as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” In its general recommendation, CERD has clarified that the prohibition of racial discrimination cannot be interpreted restrictively.⁸⁵ CERD has also stated that the Convention applies to purposive or intentional discrimination, as well as discrimination in effect and structural discrimination. This substantive, non-formalistic approach to equality is especially important in the context of environmental degradation and climate change, where discriminatory intent is difficult to prove but disparate impacts of environmental harm are clearly apparent.

43. Article 5 of ICERD requires states parties to eliminate racial discrimination in enjoyment of economic, social, cultural, civil and political rights. Article 2 requires states parties, inter alia, to “take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists” and to “prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”

⁸¹ Gupta Submission.

⁸² Vano Submission.

⁸³ A/77/10; A/CN.4/727. See also *Barcelona Traction, Light and Power Company, Limited*, Judgment, I.C.J. Reports 1970; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J. Reports 1971. Regional human rights mechanisms have reiterated the status of non-discrimination and equality principles and obligations as foundational to enjoyment of human rights. e.g. ACHPR, Communication No. 245/2002, para. 169; IACHR, Advisory Opinion OC-18/03 2003, *Juridical Condition and Rights of Undocumented Migrants*, para. 101.

⁸⁴ ICCPR art. 2; ICESCR art. 2; CRC art. 2; CERD art. 1; CEDAW art. 1; CRPD art. 2; ILO C111, 1958, para. 1(a).

⁸⁵ CERD/C/GC/32.

44. Under international human rights law, states are in breach of their obligations under if they fail to adopt or enforce anti-discrimination legislation regulating the conduct of both public and private actors; fail to amend, rescind or nullify any laws and regulations that have the effect of creating or perpetuating discrimination;⁸⁶ or fail to adopt all appropriate immediate and effective measures to prevent, diminish and eliminate the conditions, attitudes and prejudices which cause or perpetuate discrimination in all its forms, or, where necessary, fail to implement concrete special measures aimed at realizing de facto, substantive equality.⁸⁷ Special measures or “affirmative action”—specific steps taken by a State aimed at achieving equality in effect, correcting inequality and discrimination, and/or securing advancement of disadvantaged groups or individuals⁸⁸—are a protected human rights remedy⁸⁹ that States are required to implement where necessary.⁹⁰

45. The term “environmental racism” describes institutionalized discrimination involving “environmental policies, practices or directives that differentially affect or disadvantage (whether intentionally or unintentionally) individuals, groups or communities based on race or colour.”⁹¹ Environmental racism occurs within nations and across borders, as noted by the Working Group of Experts on people of African descent.⁹² People of African and Asian descent, indigenous peoples, Roma, refugees, migrants, stateless persons, and other racially and ethnically marginalized groups are all affected by environmental racism, which must be addressed to the fullest extent possible under international human rights law.

46. The Durban Declaration and Programme of Action (“DDPA”), which remains the international community’s most comprehensive plan to eliminate racism and racial discrimination, offers recommendations on tackling environmental racism. For example, it calls for increased support for people of African descent to invest in “environmental control measures” and offers several recommendations for “non-discriminatory measures to provide a safe and healthy environment for individuals and groups of individuals victims of or subject to racism, racial discrimination, xenophobia and related intolerance”.⁹³

47. Environmental racism and climate injustice interact with other forms of social exclusion, such as discrimination on the grounds of gender, age and disability. Intersectional analyses of environmental and climate-related human rights violations should recognize that women, older persons, persons with disabilities, and gender and sexually diverse persons who are members of racially marginalized peoples face distinct human rights violations. Several submissions made this point explicitly. Women in particular play important roles in rural and agricultural life, and they are typically on the frontline of environmental and climate-related human rights violations. Indeed, the Special Rapporteur on violence against women and girls has reported that climate change-induced violence against women is a distinct phenomenon caused by the feminization of intersecting

⁸⁶ E/C.12/GC/20, paras. 11, 37, 39 and 40; CCPR/C/21/Rev.1/Add.13, para. 8.

⁸⁷ CCPR/C/21/Rev.1/Add.1, para. 10; E/C.12/2005/4, para. 15; E/C.12/GC/20, paras. 8(b), 9 and 39; INT/CEDAW/GEC/3733. See also ICERD art. 7; CERD/C/GC/32; CRPD/CO/DMR/XX, para. 50.

⁸⁸ ICEDAW 4(1); ICRPD 5(4); CERD 2(2); CRPD/C/GC/6, para. 29; HRI/GEN/1/Rev.9 (Vol. I), para. 10.

⁸⁹ ICERD, ICEDAW, ICRPD, ICCPR (HRI/GEN/1/Rev.9 (Vol. I)), ICESCR (E/C.12/2005/4 paras. 9 and 39); ICRC, (CRC/GC/2003/4, paras. 1 and 12).

⁹⁰ ICERD art. 2(2); CERD/C/GC/32, para. 30; E/C.12/GC/20, paras. 8(b) and 9; CCPR/C/21/Rev.1/Add.10 (2000), para. 3.

⁹¹ R.D. Bullard, “Confronting Environmental Racism in the Twenty-First Century”, *Global Dialogue*, 4(2), 2002, p. 35.

⁹² A/HRC/48/78.

⁹³ Durban Programme of Action, paras. 5, 8(c) and 111.

vulnerabilities.⁹⁴ Elderly persons and children are also vulnerable to climate harms, particularly when they live in economically marginalized communities or States with limited economic resources to support their specific needs. Persons with disabilities similarly require resources to adapt and mitigate harms caused by climate change, and these resources are typically denied to certain States and racially marginalized communities due to systemic discrimination.

48. Environmental justice and climate justice are often linked to the right to development on sustainable terms. The right to development is intended to guarantee both a right to social and economic progress and the realization of all other human rights through self-determination and equal sovereignty. The Declaration on the Right to Development states that the right of peoples to self-determination includes the exercise of their inalienable right to full sovereignty over all their natural wealth and resources. The right to development “implies the full realization of the right of peoples to self-determination”, which includes “the right freely to determine their political status and to pursue their economic, social and cultural development”.⁹⁵

49. The United Nations Declaration on the Rights of Indigenous Peoples explicitly recognizes the importance of environmental protection in preventing discrimination against indigenous peoples. Article 29 affirms that “indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.” Article 29 also applies the “free, prior and informed consent” principle to the storage or disposal of hazardous materials in the lands or territories of indigenous peoples. Article 32 calls on States “to provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”

B. Racially Discriminatory Denial of Economic and Social Rights, the Right to Self-Determination and principles related to the Right to Development

50. In many national contexts, environmental injustice is often analyzed in terms of socio-economic inequities with limited attention to racial and ethnic inequities, and there is widespread resistance to collection of data disaggregated on racial and ethnic bases.⁹⁶ Without discounting the importance of poverty, gender, age and other social characteristics in exposing communities to environmental and climate change harms, discrimination on the grounds of race, colour, descent and national and ethnic origin remain critical determinants of climate and environmental harms experienced by individuals and communities. Systemic racial discrimination results in economic marginalization, and in many places racially, ethnically and nationally marginalized groups are trapped in low-income brackets. The economic marginalization of racially marginalized peoples plays a major role in constraining their control over the development of their communities and their exposure to toxic waste and climate disasters. Relatedly, racially marginalized peoples frequently lack true self-determination over economic development that occurs on or near their communities, making them frequent victims of racial sacrifice zones created by national authorities or transnational corporations.

51. In Haiti, a submission from a coalition of civil society organizations explained that those most harmed by climate change and environmental degradation are frequently peyizan (peasant farmers) rural women and residents of poor urban communities.⁹⁷ Haiti is

⁹⁴ A/77/136.

⁹⁵ Declaration on the Right to Development, art. 1(2).

⁹⁶ ENAR Submission.

⁹⁷ Global Justice Clinic Submission.

considered one of the five countries most affected by the climate crisis globally, yet it has contributed only around 0.003% to global greenhouse gas emissions. Furthermore, the history of racialized economic and political domination of Haiti by imperial powers is well-known and has contributed immensely to its contemporary economic conditions.⁹⁸ According to predictions, the effects of climate change will eventually double the length of the dry season in Haiti, while floods and hurricanes are likely to increase. Haitians face the prospect of declining agricultural livelihoods, malnutrition and severe mental and physical health impacts.

52. Submissions from the United States noted how Black, Latinx and indigenous communities are disproportionately more likely to live in communities near contamination hot spots, due to the legacy of economic marginalization, segregation, slavery, and colonialism. They are more likely to face the effects of pesticide poisoning due to economic marginalization that concentrates poor, racially marginalized peoples in dangerous agricultural labor. While transnational corporations continue their industrial activities, residents are often unable to achieve accountability using local or state government fora. In other parts of the country, companies continue plans to extract and transport fossil fuels over indigenous territories and sacred lands, fully supported by international financial actors eager to derive profits from fossil fuels.⁹⁹ In these scenarios, marginalization along economic and political lines has prevented Black, Latino and indigenous peoples from exercising their right to development and asserting their right to self-determination. As a result, they are unable to protect their territories from economic development that will largely benefit transnational corporations and elites outside their communities.¹⁰⁰

53. One submission noted how impoverished Afro-descendants in Brazil are disproportionately exposed to floods and landslides because of their economic marginalization and segregation into dangerous areas. Afro-Brazilians are the disproportionate victims of such disasters because of political-social structure in Brazil that places racialized peoples in living conditions of enhanced vulnerability, while public policy-makers fail to address precarious living conditions.¹⁰¹

C. Racially Discriminatory Civil and Political Persecution

54. Environmental racism results in routinized persecution of human rights defenders and environmental protectors who work to protect their communities from environmental harm. Around the world, these defenders frequently come from indigenous communities or other racially marginalized groups. As discussed prior, racial marginalization entails economic and political marginalization, and when marginalized groups make efforts to assert their rights in the face of exploitative governments and transnational corporations, these groups are heavily persecuted. Often, there is limited accountability for human rights defenders from racially and ethnically marginalized groups. In documenting deaths and violence against environmental human rights defenders, the former Special Rapporteur on human rights defenders explained that “[o]ne of the systemic causes of conflicts around environmental rights is the imbalance of power between States, companies and environmental human rights defenders.”¹⁰² A structural underpinning of this imbalance in power is systemic racism, which excludes racially marginalized peoples from full political decision-making and exposes activists and leaders to racialized violence.

55. According to one submission, in Brazil, indigenous and Afro-Brazilian leaders have been targeted by both public and private actors for their advocacy against industrial projects

⁹⁸ A/74/321.

⁹⁹ Saldamando Submission.

¹⁰⁰ Indigenous Environmental Network Submission.

¹⁰¹ Coalition of Black Brazilians for Rights Submission.

¹⁰² A/71/281.

near their lands.¹⁰³ Global Witness reports that Brazil has the fourth highest number of murdered environmentalists in the world. Traditional peoples, quilombola, riverine and indigenous communities suffer constant pressure from various economic activities in their territories and have been threatened or cruelly assassinated.¹⁰⁴ In Pará, a region with heightened environmental conflicts, several cases of commissioned murders of environmental activists have been reported. In these incidents, all the victims were black women who fought for a balanced way of life with forest conservation. Another submission reported the assassination of a South African environmental activist, also a black woman, fighting against coal mining expansion.¹⁰⁵ Yet another submission highlighted murder, rape and torture of Ogoni community activists in Nigeria, where Shell has destroyed the lives and livelihoods of indigenous peoples.¹⁰⁶

56. Another submission reports that in India, indigenous and Dalit leaders have also faced detention and criminalization due to their advocacy against local environmental policies which impinge upon their cultural autonomy.¹⁰⁷

D. Dispossession of Indigenous and Afro-descendant Peoples

57. As noted in the Special Rapporteur's report on global extractivism, indigenous and Afro-descendant peoples are frequently on the frontlines of extractive projects, and thus bear an outsized risk of harm from environmental degradation. At the same time, climate change threatens indigenous peoples in the Pacific, the Americas, the Caribbean, Asia and Africa with the loss of their homelands. The profusion of extractive projects and the subsequent emission of greenhouse gases can be attributed to the systematic dispossession of indigenous and Afro-descendant peoples and the denial of their lands and right to self-determination.

58. According to one submission,¹⁰⁸ In Brazil, Sapê do Norte, certified as protected "quilombos" territory, has been the home of quilombo communities since 1960. Inhabitants of this region have been experiencing a drastic reduction in biodiversity, large-scale deforestation, drying up of streams and filling of springs, death of animals and high dumping of pesticides in the water and soil, due to highway construction, agribusiness attacks, installation of a gas pipeline by Petrobras, and the rupture of the "Fundão Dam", operated by Samarco. The construction of the Alcântara Launch Center over the largest quilombola territory in Brazil, resulted in the mandatory removal of 312 quilombola families, and more continue to be displaced across the country.

59. Another submission reported grave human rights violations against the Chepang indigenous community in Nepal, including construction and development in their territories without free, prior informed consent, destruction of their homes and livelihood, and brutal violence against community members.¹⁰⁹ Notwithstanding the promulgation of laws intended to protect indigenous peoples in Nepal, one submission highlights the absence of dedicated resources to give effect to these laws. It reported the case of the Sonaha and Haliya communities who remain outside of the government framework intended to protect indigenous communities.¹¹⁰

¹⁰³ Coalition of Black Brazilians for Rights Submission.

¹⁰⁴ M. Nunes, "Família de ambientalistas é assassinada no Pará: pai, mãe e filha tinham projeto de soltura de quelônios no Rio Xingu", 2022.

¹⁰⁵ D'sa, P. Bond Submission.

¹⁰⁶ CESR Submission.

¹⁰⁷ Gupta Submission.

¹⁰⁸ Coalition of Black Brazilians for Rights Submission.

¹⁰⁹ FIAN Submission.

¹¹⁰ FIAN Nepal (Dalits) Submission.

E. Eco-Fascism

60. An ideological strand of racism known as “eco-fascism” has been observed in far-right and neo-Nazi circles around the world.¹¹¹ The eco-fascist movement targets racially marginalized groups and ethnic and national minorities and excluded groups as scapegoats for environmental problems. They also utilize environmental concerns to support generalized xenophobia. Eco-fascist rhetoric has been associated with white supremacist terrorism, particularly in settler-colonial nations. The Christchurch, El Paso and Buffalo shootings in New Zealand and the United States, which were explicitly targeted at racially marginalized peoples, were linked to eco-fascist rhetoric.¹¹²

IV. Towards Environmental Justice, Climate Justice and Racial Justice

A. Concerns with the Dominant Approaches

61. The responses and momentum of the global system remains woefully ill-equipped to halt racially discriminatory and unjust features and consequences of ecological crisis. The Special Rapporteur is concerned that dominant international approaches to governing environmental and climate issues amount to a doubling down on racial inequality and injustice.

Racially Discriminatory Mitigation and Over-reliance on Market-Based “Solutions”

62. Several submissions noted that some “green” solutions to climate change challenges actually reinforce or perpetuate racial marginalization and inequities. The transition to alternatives to fossil fuels in some contexts is resulting in “green sacrifice zones”¹¹³ meaning racially and ethnically marginalized groups are disproportionately exposed to human rights violations associated with the extraction or processing of these alternatives.¹¹⁴ Critiques of “green capitalism” or “green growth” point out that these approaches promote energy transitions that “tend to presuppose the perpetuation of colonial arrangements.”¹¹⁵ They seek to maintain unsustainable levels of consumption in the Global North through transitions that require tremendous destructive extraction from the Global South. As “Green New Deals” proliferate in the Global North, their efficacy is contingent on their capacity to address the root causes of ecological crisis and undo the systemic racism embedded in fossil fuel economies.¹¹⁶ Even development initiatives and seemingly “green” private ventures in Global South countries can mask their profit-seeking arc, resulting in worsened environmental conditions and conflicts.¹¹⁷

63. Consultation participants reported that in large part because many climate-related initiatives are designed without the input, consideration or leadership of racially marginalized peoples, they can reinforce patterns of racial discrimination already present in

¹¹¹ ENAR Submission.

¹¹² K. Aronoff, “The Buffalo Shooter and the Rise of Ecofascist Extremists”, 2022.

¹¹³ C. Zografos, P. Robbins, “Green Sacrifice Zones, or Why a Green New Deal Cannot Ignore the Cost Shifts of Just Transitions”, *One Earth*, 3, 2020.

¹¹⁴ C. Burgess, “Australia’s Lithium Extractivism is costing the earth”, 2022.

¹¹⁵ J. Hickel, “The Anti-Colonial Politics of Degrowth”, *Political Geography*, 88(3), 2021.

¹¹⁶ Sealey Huggins Submission.

¹¹⁷ G. Siciliano et al. “Environmental Justice and the Chinese Dam-building in the Global South,” *Current Opinion in Environmental Sustainability* 37 (2019); Shun Deng Fam. 2017. *China Came, China Built, China Left?: The Sarawakian Experience with Chinese Dam Building*, *Journal of Current Chinese Affairs* 46(3).

national and international economies. Over-reliance on technocratic knowledge and the exclusion of local communities from climate change leadership have worked to distract from the systemic changes demanded by frontline communities and required to truly solve the ongoing crisis.¹¹⁸

64. For example, carbon capture and storage (CCS) technologies are increasingly promoted as processes that can collect carbon dioxide generated by industrial activities before they reach the atmosphere, and transport captured emissions to sites where they can be used or stored. However, one submission reported that carbon capture is neither necessary to avoid catastrophic levels of warming nor feasible at scale.¹¹⁹ In fact, it warns that carbon capture distracts from the reforms needed to ensure a fossil fuel-free future, an outcome which is essential to the health and rights of the marginalized communities on the frontlines of the climate and environmental crisis. Carbon capture can lock current pollution in place, rather than facilitating energy transition. The submission reports that many carbon capture programmes are launched in places already overburdened by the heavy concentration of toxic industrial pollution. These places overlap with the “racial sacrifice zones” described above. This trend is especially concerning because carbon capture can increase the emission of harmful air pollutants at the site of capture because of the increased energy required to power the capture equipment and the chemicals used in the process.

65. Other experimental or speculative technologies proposed in response to climate change, potentially pose significant risks to human rights. For example, experts believe that some “geoengineering” projects meant to adapt to climate change may have significant adverse impacts, including termination shock, rainfall disruption, water depletion, and the erosion of human and ecological resilience. The IPCC has warned against overreliance on unproven technologies that could disrupt natural systems and disproportionately harm Global South communities.¹²⁰

66. Other programmes and policies could similarly have negative impacts on indigenous peoples and racially marginalized peoples in the Global South. For example, some experts have extensively criticized the REDD+ programme for its use of over-optimistic projections but also its use of indigenous territories and denial of certain communities’ rights of self-determination.¹²¹ One submission reports the role of REDD+ in providing cover for land grabs against indigenous peoples.¹²²

67. One submission noted that access to available climate financing, especially at the local level, remains a critical challenge. It also reported that experts have described the operation of international climate institutions as a form of indirect colonization. Projects are often envisioned and directed by international institutions that tend to privilege Global North perspectives over Global South contributions.¹²³

Climate and Racial Injustice Rooted in Existing International Frameworks

68. A complex framework on international environmental law exists, and with the creation of the United Nations Environmental Programme (UNEP) and the adoption of the Stockholm Declaration and Action for the Human Environment in 1972, UN member states initiated a regime for global environmental coordination. Multiple treaties address pollution and biodiversity, although this Section focuses on climate change governance including through the United Nations Framework Convention on Climate Change (UNFCCC), the

¹¹⁸ Gonzalez Submission.

¹¹⁹ CIEL Submission.

¹²⁰ Ibid.

¹²¹ Dehm Submission.

¹²² Indigenous Environmental Network Submission.

¹²³ CESR Submission.

Kyoto Protocol, and the Paris Agreement. The UNFCCC framework advances three pillars in the fight against climate change: adaptation, mitigation, and “loss and damage.”

69. In U.N. environmental and climate negotiations, Global South states have consistently advocated for an international environmental framework that recognizes structural disparities in the global economic and political system. In her address at the Stockholm Conference, whose outcomes were greatly influenced by Global North economists,¹²⁴ Indian Prime Minister Indira Gandhi called for a collective approach to address environmental issues while emphasizing the need for appreciating power inequities and historical domination.¹²⁵ At the Stockholm Conference, Global South states raised concerns about environmental degradation and human rights impacts caused by industrial activities of Global North transnational corporations. Some negotiators consistently argued that environmental issues must be considered in light of historical and geopolitical structures,¹²⁶ and even at the 1992 Earth Summit, the Prime Minister of Malaysia highlighted the emergence of climate colonialism perpetuated by States in the Global North.¹²⁷ Yet the global climate framework offers no real path forward for climate justice, which entails racial justice.

70. At the Rio Summit, the Conference Secretariat estimated that developing countries required \$100 billion per year in external assistance to meet the Rio Summit’s action plan, Agenda 21.¹²⁸ Notwithstanding their role in creating the climate crisis, some powerful states in the Global North refused to contribute the requisite aid to Global South states.¹²⁹ At the 20th anniversary of the Rio Summit, Rio+20, Global North states refused requests from Group 77 and China to increase financial assistance to meet their environmental commitments.¹³⁰

71. The framing of climate change within international fora frequently elides historical responsibility borne by some States and transnational corporations. Although the common but differentiated responsibility principle has been enshrined in the Rio Declaration and carried through the UNFCCC, Kyoto Protocol and Paris Agreement, Global North states have accepted the language on the basis of differential or superior capacity, rather than as an indication of State responsibility for historical harm.¹³¹

72. Questions of reparation and remediation for loss and damage caused by climate change and environmental degradation have purposefully been excluded from relevant

¹²⁴ See K. Mickelson, “The Stockholm Conference and the Creation of the North-South Divide in International Environmental Law and Policy”, in *International Environmental Law and the Global South*, S. Alam et al., eds. (2015); P. McMichael, “Contemporary Contradictions of the Global Development Project: geopolitics, global ecology and the ‘development climate’”, *Third World Quarterly*, 30(1), 2009.

¹²⁵ M. Rao, “A TWAIL Perspective on Loss and Damage from Climate Change: Reflections from Indira Gandhi’s Speech at Stockholm”, *Asian Journal of International Law*, 12(1), 2022.

¹²⁶ Ibid.

¹²⁷ P. McMichael, “Contemporary Contradictions of the Global Development Project: geopolitics, global ecology and the ‘development climate’”, *Third World Quarterly*, 30(1), 2009.

¹²⁸ M. Khor, “An Assessment of the Rio Summit on Sustainable Development”, *Economic and Political Weekly*, 47, 2012.

¹²⁹ J. Vogler, H. R. Stephan, “The European Union in global environmental governance: Leadership in the making?”, *International Environmental Agreements*, 7, 2007.

¹³⁰ M. Khor, “An Assessment of the Rio Summit on Sustainable Development,” *Economic and Political Weekly*, 47, 2012. See CESR Submission.

¹³¹ S. Atapattu, C. G. Gonzalez, “The North–South Divide in International Environmental Law: Framing the Issues in International Environmental Law and the Global South”, eds. S. Alam et al., (Cambridge, Cambridge University Press, 2015).

frameworks by the powerful countries most responsible for the harm.¹³² The eventual inclusion of loss and damage within the Paris Agreement was due to a compromise that shields wealthy countries from accountability.¹³³ As such, the trajectory of the loss and damage framework after the Paris Agreement has continued its transition away from confronting historical responsibility and reparation.¹³⁴

73. The massive power and resource imbalances among states participating in climate change negotiations have led to compromises that benefit politically powerful states—including former colonial powers—at the expense of Global South states, especially SIDS. One submission highlighted how existing climate mitigation interventions, which are only delivered in English and remain highly technical, widen the gap between traditional and scientific approaches to climate response.¹³⁵ Although states in the Global North are typically capable of fielding large negotiating teams and relying upon well-resourced national bureaucracies operating in English, other states are limited to smaller negotiating teams with limited support from their capitals.¹³⁶ This imbalance is magnified by the outsized economic capacity of Global North states, which was built in significant part through racist domination of the Global South, and allows the north to exert greater leverage on the Global South. At the same time, Global South states have no effective, reliable means of holding Global North states accountable for failing to meet their climate obligations or to provide reparations for historical and ongoing climate injustice.

74. There are vital debates about the need for greater compliance with existing international standards in the face of ecological crisis, but as highlighted by submissions received, a central problem is the existing international legal frameworks. For example, in addition to the above, international law fails to provide robust provisions for holding transnational corporations accountable for human rights violations that disproportionately affect peoples and territories colonially designated as non-white. International investment law presently serves as a deterrent to environmentally responsible extractivism regulation because of the costly arbitral proceedings that can result from national environmental and other regulation that diminishes the value of foreign investment. An additional concern is that the applicable legal and policy frameworks have operate as “hyper-technocratic silo[s]”¹³⁷ that are disconnected both from the bodies of law that are major contributors to the problem, and from the economic, social and political fields that shape and are impacted from ecological crisis. Even the way nature and the environment are conceptualized in international environmental discussions is limited to the commercial, human-centric understandings of nature that can be traced to early European scholars, and that remain the dominant frames in international law.¹³⁸ The worldviews that have precipitated ecological disaster and that are determining the global response remain anchored in Eurocentrism and continue to exclude the worldviews of other peoples. This epistemic imperialism is itself racial justice issue.

¹³² Dehm Submission.

¹³³ M. Burkett, “Reading between the Red Lines: Loss and Damage and the Paris Outcome”, *Climate Law*, 6(1), 2016, p. 124.

¹³⁴ J. Dehm, “Climate change, ‘slow violence’ and the indefinite deferral of responsibility for ‘loss and damage’”, *Griffith Law Review*, 29, 2020.

¹³⁵ Vano Submission.

¹³⁶ D. Falzon, “The Ideal Delegation: How Institutional Privilege Silences “Developing” Nations in the UN Climate Negotiations”, *Social Problems*, spab040, 2021.

¹³⁷ Gonzalez and CESR Submissions.

¹³⁸ U. Natarajan and K. Khoday, “Locating Nature: Making and Unmaking International Law”, *Leiden Journal of International Law*, 27, 2014.

B. Recommendations

75. This report conveys the grim picture on the ground, but there are racially and ethnically marginalized groups that challenge environmental racism and climate injustice on a daily basis, and that are charting paths toward climate justice and environmental justice more broadly. From consultations, the Global Tapestry of Alternatives¹³⁹ offers one example. It is a “network of networks”, that is a non-hierarchical, horizontal initiative focused on solidarity, strategic alliances, and systemic solutions on local, regional, and global levels. Other examples include Oil Change International and Indigenous Environmental Network,¹⁴⁰ Native Conservancy, Gender CC Southern Africa, Global Alliance of Territorial Communities, and Mouvman Peyizan Papay, which are but a few examples of grassroots environmental and climate-justice initiatives that are also forging transnational alliances and centering racially and ethnically marginalized groups in environmental and climate-related knowledge production. Localism alone cannot be a solution to global ecological crisis, but global approaches to adaptation, mitigation and loss and damage must be shaped by and responsive to grassroots organizations and networks of racially, ethnically and nationally marginalized groups who are on the front lines of the global ecological crisis.

76. The Special Rapporteur additionally recommends the following to Member States, and stakeholders within the UN environmental and climate governance regimes:

77. Adopt a global approach that effectively responds to the fact that climate justice requires racial justice, and that racial justice requires climate justice. The racially disparate impacts of environmental degradation, and climate injustice require fundamental reorientation of political institutions, economic systems and legal principles to include racial justice and equality priorities. “Green transitions” must also be racially just transitions. Transitions to cleaner forms of energy, climate adaptations and other programmes must take steps, including special measures, to ensure that climate change responses do not continue patterns of racial marginalization and discrimination. True racial justice entails an end to environmental racism, and also entails adaptation, mitigation and loss and damage frameworks that uproot the systemic racism built into the global economy, political hierarchies and legal frameworks. This includes wholesale decolonization of legal and economic systems to ensure that racially marginalized peoples, including indigenous peoples, possess true self-determination, including sovereignty over their territories. As noted in one submission, racial justice and climate justice require fiscal justice.¹⁴¹

78. Prioritize reparations for historical environmental and climate harms and for contemporary harms rooted in historic injustice. The Special Rapporteur urges member states and stakeholders to consult her 2019 report on reparations for racial discrimination rooted in slavery and colonialism, which also applies to the context of climate and environmental justice. Reparations require addressing historic climate injustice, as well as eradicating contemporary systemic racism that is a legacy of historic injustice in the context of the global ecological crisis. To the extent that contemporary international legal principles present barriers to historical responsibility for climate change, UN member states must decolonize or transform this law in a manner that makes it capable of guaranteeing genuine equality and self-determination for all peoples. Reparations, which entail equitable international economic, political and legal frameworks, are a precondition for reorienting the global order away from ecological crisis. Proposals for pathways to reparations are growing,

¹³⁹ <https://globaltapestryofalternatives.org/introduction>.

¹⁴⁰ Indigenous Environmental Network and Oil Change International, *Indigenous Resistance against Carbon*, 2021. See Kaswan Submission

¹⁴¹ CESR Submission.

and progress requires global, national and local collaboration and partnership with racially, ethnically, and nationally marginalized groups.

79. The Special Rapporteur emphasizes that the right to self-determination includes indigenous peoples' right to development on their own terms, timelines and ideologies. Indigenous peoples are diverse, with varied needs, priorities and governance structures. Indigenous peoples should not be forced into categorical or stereotypical roles as "full-time stewards of the natural environment", nor they should be trapped into paternalistic development arrangements driven by State governments.

80. Stop racially discriminatory human rights violations relating to climate and the environment and provide effective remedies to the individuals and groups affected. The Special Rapporteur urges states to implement the recommendations of the many Special Procedures mandates that have offered technical and other recommendations that can assist in this regard. Climate migrants and refugees should be provided with the requisite legal and substantive protections, especially in countries with historic responsibility for climate injustice. Racial equality and non-discrimination require that all necessary measures be taken to preserve indigenous homelands and mitigate the effects of climate change on SIDS. States and other stakeholders must also ensure human rights-complaint data collection on environmental and climate impacts, disaggregated on the basis of race, ethnicity and national origin.

81. Systematically hold transnational corporations accountable for environmental racism and climate injustice.

82. Institutionalize meaningful participation and decision-making of racially, ethnically and nationally marginalized persons and peoples in global and national climate governance, including women, gender-diverse persons, persons with disabilities, refugees, migrants and stateless persons.
