

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

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# COP26 OUTCOME: 12 MONTHS TO TAKE CLIMATE ACTION THAT DELIVERS ON HUMAN RIGHTS

Amnesty International is extremely disappointed that the COP26 outcome presents only minimal and incremental progress to protecting human rights in the context of the climate crisis. These improvements on decisions from previous COPs and on the positions of states prior to Glasgow conference include a mention of the need to phase-out some forms of fossil fuel subsidies and phase-down coal power, the request to states to enhance their 2030 ambition plans by the end of 2022 and the commitment to increase the proportion of climate financing allocated to help states adapt to the effects of climate change.

Compared to what states could do and must do to protect people's human rights in line with their obligations under international human rights law, Amnesty International considers the COP26 outcome a [catastrophic failure](#). Despite the fact that pledges made before and during COP26 would still lead to an increase of global temperatures of 2.4°C,<sup>1</sup> states still failed to commit to limit the global temperature rise to 1.5°C and to put in place the steps needed to achieve this. They also did not commit sufficient and appropriate forms of finance, and still did not commit to provide any financing towards compensating communities suffering loss and damage as a result of climate change.

There are many loopholes in the COP26 outcome which bow to the interests of fossil fuel corporates rather than to protecting human rights. The outcome does not call for phasing-out of oil and gas, allows continued coal use and production and allows for 'efficient' fossil fuel subsidies. Its focus on 'net zero' targets and provisions permitting the use of unnecessary carbon credits allows scope for states to delay real emission reductions in favour of illusory emissions reductions due to unproven technology or carbon trading. It has inadequate environmental and human rights protection measures, putting Indigenous peoples and local communities affected by these projects further at risk, such as by being evicted from their land to make way for these schemes.

The 12-month window for states to enhance their ambition plans (their Nationally Determined Contributions or NDCs), and the fact that loss and damage will be on the agenda at the next COP27 provide a critical moment for states to re-examine their climate policies and ensure that these meet their human rights obligations. Mere tweaks and more long-term processes will not achieve this. States must shake off the lethargy that has characterised their climate plans and recognise that perpetuating the fossil fuel economy and other sources of greenhouse gas emissions is a daily decision to violate the human rights of those who are and will be affected by the climate crisis. They must pick up the pace and take seriously the challenge at hand.

In the next 12 months, States must put in place the major legal and policy changes required and the significant mobilisation of resources, domestically and for wealthy states, internationally. They must put in place immediate plans to phase-out fossil fuels and carry out a rapid and just transformation of energy use in a way that protects and advances the rights of workers, communities reliant on fossil fuel-based economies and others whose human rights are at risk. Wealthy states must significantly increase their climate finance contribution, including committing resources towards loss and damage. States should rightly expect intense scrutiny and pressure on these points from civil society, Indigenous peoples, and the general public, within their borders and globally.

This public statement provides a brief analysis from a human rights perspective of topics that Amnesty International had followed prior to and at COP 26: emission reduction targets, climate finance, loss and damage, carbon trading mechanisms and the work programme on Action for Climate Empowerment (ACE).<sup>2</sup> It does not comprehensively assess the full COP26 outcome.

<sup>1</sup> Climate Action Tracker, *Glasgow's one degree 2030 credibility gap: Net zero's lip service to climate action*, 9 November 2021, <https://climateactiontracker.org/press/Glasgows-one-degree-2030-credibility-gap-net-zeros-lip-service-to-climate-action/>

<sup>2</sup> See Amnesty International, *Recommendations to states ahead of COP26 for human rights consistent climate action*, 20 October 2021, <https://www.amnesty.org/en/documents/ior40/4902/2021/en/>

## FAILURE TO MEANINGFULLY COMMIT TO KEEP GLOBAL TEMPERATURE BELOW 1.5 °C

The COP26 outcome:

- Recognizes that the impacts of climate change will be much lower at the temperature increase of 1.5°C compared with 2°C and the need to reduce emissions 45% by 2030 from 2010 levels in order to keep the rise below 1.5 °C. However, it does not commit to achieving these reductions and to keep the global temperature below 1.5 °C, but only promises to attempt to do so.<sup>3</sup>
- Requests states to revisit and strengthen the 2030 targets in their nationally determined contributions by the end of 2022.<sup>4</sup> However, they are not requested to do so in line with a 1.5 °C pathway, but only in line with the Paris Agreement temperature goal of keeping below 2 °C and “pursuing efforts” to limit the temperature increase to 1.5°C.
- Invites states to update their long-term strategies regularly in line with the best available science,<sup>5</sup> but not in line with a 1.5 °C pathway. The outcome continues to refer to long-term strategies to achieve “net-zero emissions by or around mid-century”,<sup>6</sup> allowing states to postpone fossil fuel phase-out in favour of unproven, unworkable or harmful carbon capture or removal approaches.<sup>7</sup> It also fails to acknowledge that to collectively achieve zero emissions by or around mid-century, wealthier states have the duty to achieve this target earlier than others, to avoid putting an excessive burden on lower-income countries.
- Calls upon states to accelerate efforts towards the “phase-down of unabated coal power” and “phase-out of inefficient fossil fuel subsidies, while providing targeted support to the poorest and most vulnerable in line with national circumstances and recognizing the need for support towards a just transition”.<sup>8</sup> While this is the first mention ever of the need to phase-down fossil fuel subsidies and coal in a COP decision, the phrasing of this commitment is utterly inadequate to put humanity on the path of limiting temperature increase to 1.5C. The outcome is silent on the need to phase-out oil and gas and on the need to phase-out production of coal. It merely refers to a phase-down, rather than a phase-out of coal power, and fails to provide an end point to any coal use. By referring to ‘unabated’ coal power, it provides an excuse for continued coal power use on the basis of unproven carbon capture and storage technology. The outcome also provides an excuse for states to maintain fossil fuel subsidies, as long as they are deemed ‘efficient’. Fossil fuel subsidies should only be provided on a transitional basis, where strictly needed in order to ensure access to energy while access to renewable energy is being put in place. Fossil fuel subsidies can only be considered efficient in the same way that nuclear weapons are an ‘efficient’ means of killing millions of people. The outcome does reference the need for significant amounts of international finance required for lower-income countries to put in place the renewable energy infrastructure necessary to replace coal and to assist communities reliant on coal transition to alternative livelihoods.
- Adopts rules for the implementation of international carbon markets which are stronger than initially feared but still allow for some loopholes that could undermine the ambition to keep temperature rise below 1.5°C. For example, the adopted rules for the implementation of Article 6 of the Paris agreement permit the use of emissions reduction credits ‘earned’ in the past under the expired Kyoto Protocol to count towards emissions reductions under state’s Nationally determined contributions.<sup>9</sup> It also includes loopholes for unauthorized credits to flood in, including new credits based on false climate solutions.<sup>10</sup> This allows for states to limit their ambition in emissions reductions in their NDCs, contrary to their legal obligation to take all possible steps to reduce emissions. This further violates the human rights of those who are already paying an immense price for our continued reliance on fossil fuels.

On an urgent basis, and well before COP27, states must develop more ambitious targets for emissions reduction consistent with a 1.5 °C pathway, based on zero emissions, rather than ‘net zero’ targets. These should include the rapid phase-out of fossil fuel subsidies and use. Instead of relying on carbon markets and other mechanisms to delay genuine emissions reductions, states must protect human rights by committing to specific, real emissions reductions by 2030 to

<sup>3</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, paras 21 and 22

<sup>4</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 29. States who have not yet submitted NDCs or long-term strategies are requested to do so as soon as possible in advance of COP27 (paras 28 and 32).

<sup>5</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 33

<sup>6</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 32.

<sup>7</sup> See Amnesty International, *Stop burning our rights! – What states and corporations must do to protect humanity from the climate crisis*, 7 June 2021, <https://www.amnesty.org/en/documents/pol30/3476/2021/en/>, pages 58-61 and 81-84.

<sup>8</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 36.

<sup>9</sup> Decision on Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, para 73, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_12b\\_PA\\_6.4.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf)

<sup>10</sup> Center for International Environmental Law, *At COP26, a Failure of Vision, Action, Equity and Urgency*, <https://www.ciel.org/news/at-cop26-a-failure-of-vision-action-equity-and-urgency/>

keep the global temperature rise below 1.5°C. To genuinely reduce emissions fast enough, one of the essential steps required is to rapidly phase-out the production and use of all fossil fuels – coal, oil and gas - in a way that delivers a just transition and ensures the human rights of all, with the full participation of the most affected groups. Wealthy industrialized states must also decarbonize their economies quicker than others, adopting emission reduction targets that reflect their responsibility for the climate crisis and their higher level of resources.

Specifically,

- Wealthy industrialized states should adopt the most ambitious emission reduction targets that would enable them to reduce greenhouse gas (GHG) emissions by 50% well before 2030 and reach zero carbon emissions by 2030 or as soon as feasible after then.
- Developing countries with greater capacity<sup>11</sup> must set emission reduction targets that would enable them to reduce GHG emissions by at least 45% from 2010 levels by 2030 or as soon as possible after that, and to reach zero by 2050, as the IPCC stated that these emission reduction targets at global level are needed to limit global warming to 1.5°C.
- Other developing countries should aim to reduce their emissions by levels consistent with the 1.5°C target as soon as possible in line with their own respective capacity and all available international financial support provided for climate action.

## INSUFFICIENT COMMITMENTS ON CLIMATE FINANCE

The COP26 outcome:

- “Notes with deep regret” that the goal of wealthy countries to mobilize jointly USD 100 billion per year by 2020 has not yet been met<sup>12</sup> and “urges” developed countries to fully deliver on the \$100bn urgently and through to 2025.<sup>13</sup> Although it is predicted that this target may be met by 2023,<sup>14</sup> COP26 failed to require wealthy states to provide the cumulative amount promised of USD 600 billion between 2020 and 2025. In addition, it fails to establish a clear commitment for wealthy countries to provide climate finance to low-income countries primarily in the form of grants, not loans. This threatens poorer countries – the least equipped to cope with the climate crisis - with unsustainable levels of debt.
- Failed to agree on a new collective, quantified and higher finance goal for post-2025, as states only agreed to continue the discussion between 2022 and 2024 through a dedicated work programme.<sup>15</sup> This approach fails to demonstrate the urgency of the task, and the need to mobilise funds at the massive scale needed to launch the transformation of infrastructure required to reduce emissions globally by half by 2030 requires international finance in the trillions of dollars.<sup>16</sup>
- Urges developed countries to at least double collective provision of climate finance for adaptation for developing countries from 2019 levels by 2025, in the context of achieving a balance between mitigation and adaptation in the provision of scaled-up financial resources.<sup>17</sup> While this is certainly a major step forward to fill the gap of climate finance dedicated to support people to adapt to climate change impacts and to achieve a balance between mitigation and adaptation funding, this commitment is still too little, too late, given that the doubled amount that would be achieved only in 2025 is still below the current estimated needs of developing countries,<sup>18</sup> and that it is not matched by a commitment to increase the overall amount of climate finance.

<sup>11</sup> Amnesty International considers countries classified by the World Bank as “upper middle income” and which are also part of the G20 as “developing countries with greater capacity”. These are China, South Africa, Argentina, Brazil, Mexico, South Korea, Indonesia.

<sup>12</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 44

<sup>13</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 46.

<sup>14</sup> See *Climate Finance Delivery Plan; Meeting the US\$100 Billion Goal*, <https://ukcop26.org/wp-content/uploads/2021/10/Climate-Finance-Delivery-Plan-1.pdf>

<sup>15</sup> Decision on New collective quantified goal on climate finance, [https://unfccc.int/sites/default/files/resource/New\\_collective\\_goal\\_decision\\_1.pdf](https://unfccc.int/sites/default/files/resource/New_collective_goal_decision_1.pdf)

<sup>16</sup> According to information compiled by the UNFCCC’s Standing Committee on Finance, 78 of 153 NDCs have costed needs, and these amount to USD 5.8–5.9 trillion up until 2030. Only 11% of the costed needs specify whether finance has to be domestic or international; of these USD 502 billion is identified as needs requiring international sources of finance and USD 112 billion as sourced from domestic finance. See UNFCCC Standing Committee on Finance, First report on the determination of the needs of developing country Parties related to implementing the Convention and the Paris Agreement, 2021, para. 16, <https://unfccc.int/topics/climate-finance/workstreams/needs-report>. These figures were as of 31 May 2021.

<sup>17</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 29.

<sup>18</sup> The most recent figures of climate financial flows refer to 2019, see <https://www.oecd-ilibrary.org/finance-and-investment/climate-finance->

- Acknowledges the growing needs of developing countries for financial support, in particular due to the increasing impacts of climate change and increased indebtedness as a consequence of the coronavirus disease 2019<sup>19</sup>. It also encourages relevant multilateral institutions to consider how climate vulnerabilities should be reflected in the provision and mobilization of concessional financial resources and other forms of support, including special drawing rights.<sup>20</sup>
- Calls upon wealthy countries, multilateral development banks and other financial institutions to accelerate the alignment of their financing activities with the goals of the Paris Agreement.<sup>21</sup> This is an important call but does not include any benchmarks or timeframes.

The provision of adequate finance to lower-income countries is not just a humanitarian issue, it is a human rights obligation as part of states' duties to provide international assistance and cooperation to others to enable them to meet their own rights commitments. It is also essential to ensuring that global average temperatures are kept below 1.5°C, as poorer countries need sufficient level of resources to carry out just and human rights consistent transitions to zero carbon economies and resilient societies in the quickest timeframe possible. Wealthy states must therefore individually urgently scale up their level of contributions, with the aim of delivering the amount promised of USD 600 billion between 2020 and 2025. They must also ensure climate finance to low-income countries is provided in the form of grants, not loans, and rapidly implement their commitment to achieve a better balance between mitigation and adaptation funding. They must also individually, and collectively, prepare for a significant increase in allocation towards international climate financing and communicate this to lower-income countries to facilitate effective domestic planning for climate projects.

## FAILURE TO COMMIT DEDICATED FUNDING FOR LOSS AND DAMAGE

The COP26 outcome:

- Failed to set up a financial facility or other mechanisms to provide new and additional finance, separate from those committed for climate change mitigation and adaptation and beyond insurance, to support people in lower-income countries affected by loss and damage caused by the climate crisis. Despite the coordinated efforts from developing countries to finally obtain dedicated financial commitments for loss and damage, wealthy countries once again opposed any concrete decisions in this regard. As a consequence, the COP26 outcome only establishes a dialogue (the so-called "Glasgow Dialogue") to "discuss the arrangements" for funding activities related to loss and damage.<sup>22</sup>
- Postponed to COP27 the full operationalization of the Santiago Network for Loss and Damage (SNLD), a technical advisory body established at COP25 to provide scientific and technical advice to countries being affected by loss and damage. However, some progress was made, as the key functions of the network were agreed upon, particularly to identify technical assistance needs in developing countries related to addressing loss and damage and connecting those seeking technical assistance with best suited organizations, bodies, and experts.<sup>23</sup> COP26 also urged wealthy countries to provide technical assistance and funds for the operation of the Santiago Network.<sup>24</sup>

The continued failure of wealthy countries to accept their historical responsibility for the climate crisis and their duty to provide remedy for the losses and harm suffered leaves people most affected by the impact of climate crisis without adequate avenues to receive the necessary support and redress. It also contributes to undermining global responses to climate change that are commensurate to the scale of this crisis, and it erodes every year more the trust of most affected developing countries in the climate negotiations process. It is therefore imperative that wealthy countries rapidly follow the example of Scotland and the Belgian region of Wallonia who have committed dedicated funding for loss and damage.<sup>25</sup> By COP27, the formal process for dialogue on funding for loss and damage established at COP26 must lead to the creation of a new financial facility funded by new and additional finance, separate from those committed for climate change

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provided-and-mobilised-by-developed-countries-aggregate-trends-updated-with-2019-data\_03590fb7-en. A doubling of climate finance for adaptation based on 2019 levels would mobilize approximately US\$40 billion. It is estimated that financing needs for annual adaptation costs could range between US\$ 140–300 billion by 2030 and US\$ 280–500 billion by 2050. See United Nations Environment Program, *Adaptation Gap Report 2021*, 1 November 2021, <https://www.unep.org/resources/adaptation-gap-report-2021>

<sup>19</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 41.

<sup>20</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 48.

<sup>21</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 55.

<sup>22</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 73.

<sup>23</sup> Decision on Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, UN Doc FCCC/CP/2021/L.15, para 9, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_7\\_WIM.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_7_WIM.pdf)

<sup>24</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 70.

<sup>25</sup> Scottish Government, Scotland to boost climate funding, 11 November 2021, <https://www.gov.scot/news/scotland-to-boost-climate-funding/>; The Brussels Times, COP26: Wallonia earmarks one million euros for loss and damage, 14 November 2021, <https://www.brusselstimes.com/news/193568/cop26-wallonia-earmarks-one-million-euros-for-loss-and-damages/>

mitigation and adaptation. The facility must not be limited to insurance and should provide timely means, support and remedy, including compensation, to people and communities, including Indigenous Peoples, whose human rights have been negatively affected as the result of loss and damage caused by the climate crisis in climate-vulnerable developing countries.

## FAILURE TO ROOT DECISIONS IN HUMAN RIGHTS STANDARDS

The COP26 outcome:

- Adopts three decisions on the implementation of Article 6 of the Paris agreement on cooperative approaches to emission reductions, including carbon markets, that only include symbolic references to the preamble of the Paris agreement that acknowledges that governments must respect, promote and consider their respective obligations on human rights when taking action to address climate change.<sup>26</sup> However, concrete mechanisms to ensure that carbon offset projects and other non-market approaches for emission reductions do not violate the human rights of affected people are not provided for in the decisions. In particular, there is no reference to the obligation to respect human rights in the design of carbon market activities under the Sustainable Development Mechanism, nor to the obligation of states to respect the right of Indigenous peoples to free, prior and informed consent. While the final adopted text indicates that grievances related to carbon offset projects “can be addressed by an independent grievance process”, there are no details about this mechanism.<sup>27</sup> These weak references to human rights guarantees are particularly concerning as carbon offset projects pose enormous risks, particularly for Indigenous peoples and other groups most affected by the climate crisis. The adoption at COP26 of implementation rules for international carbon markets could lead to the multiplication of carbon offset projects around the world from states and companies. This in turn could result in Indigenous peoples being dispossessed of their ancestral land and other communities being forcibly evicted in the name of climate mitigation projects, many of which – such as bioenergy or hydroelectric dams – have also dubious or limited impact in reducing emissions.
- Adopts a new 10-year work program on Action for Climate Empowerment (ACE) to enhance climate change education, training, public awareness, public participation and public access to information.<sup>28</sup> However, it fails to root this work program in human rights law, principles and standards. Explicit references to human rights as a guiding principle were removed in the final stage of negotiations at the end of the first week of COP26. However, the COP26 overarching decision urges states to respect, promote and consider their respective obligations on human rights, as well as gender equality and empowerment of women, in the implementation of the work programme on Action for Climate Empowerment.<sup>29</sup>
- Includes references to the preamble of the Paris Agreement that acknowledges that governments “should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.<sup>30</sup> While this is welcome, states failed to go beyond and reflect in the cover decision important recent and relevant developments at the UN Human Rights Council, such as the resolution recognizing the right to a clean, healthy and sustainable development<sup>31</sup> and the resolution establishing the mandate of a Special Rapporteur on Human Rights and Climate Change.<sup>32</sup>

<sup>26</sup> See preamble, para. 18.(i).(j) and para 22(g) of the Decision on Guidance on cooperative approaches referred to in Article 6, paragraph 2, of the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_12a\\_PA\\_6.2.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf); preamble and para 24(a)(ix) of the Decision on Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_12b\\_PA\\_6.4.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf); preamble and para 3(a) on the Decision on Work programme under the framework for non-market approaches referred to in Article 6, paragraph 8, of the Paris Agreement, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_12c\\_PA\\_6.8.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_12c_PA_6.8.pdf).

<sup>27</sup> Decision on Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, para 62, [https://unfccc.int/sites/default/files/resource/cma3\\_auv\\_12b\\_PA\\_6.4.pdf](https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf)

<sup>28</sup> Review of the Doha work programme on Article 6 of the Convention, UN Doc FCCC/SBI/2021/L.18, [https://unfccc.int/sites/default/files/resource/sbi2021\\_L18\\_adv.pdf](https://unfccc.int/sites/default/files/resource/sbi2021_L18_adv.pdf)

<sup>29</sup> Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16, para. 91.

<sup>30</sup> Preamble of Glasgow Climate Pact, 13 November 2021, UN Doc. FCCC/PA/CMA/2021/L.16

<sup>31</sup> Human Rights Council, Resolution 48/13, The Right to clean, healthy and sustainable environment, 18 October 2021, UN Doc. A/HRC/RES/48/13.

<sup>32</sup> Human Rights Council, Resolution 48/14, Mandate of the Special Rapporteur on the promotion and protection of human rights in the context of climate change, 13 October 2021, UN Doc. A/HRC/RES/48/14.

- Acknowledges “the need to ensure just transitions that promote sustainable development and eradication of poverty, and the creation of decent work and quality jobs”. Whilst it is welcome that the key role of just transition is acknowledged, it would have been preferable if there had been an explicit reference to a human rights consistent process that ensures that all rights of impacted individuals are not just protected but actually enhanced throughout. In addition, there was no requirement that states prepare appropriate concrete just transition plans by a particular timeframe. This is deeply concerning as such plans should be prepared and implemented before phase-outs of fossil fuel and other carbon-intensive economic activity, rather than be treated as an afterthought.
- Refers to the role of Indigenous peoples’ and local communities’ culture and knowledge in effective action on climate change and urges Parties to actively involve Indigenous peoples and local communities in designing and implementing climate action.<sup>33</sup> This is an important recognition which, however, falls short of international standards as it fails to re-state the obligation of states and the responsibility of companies to respect the right of Indigenous peoples to free, prior and informed consent.

Moving forward, States must ensure that the references to human rights included in the COP26 decisions are translated into effective measures to respect, protect and fulfil human rights in climate action. In particular, the implementation of the Glasgow work program on Action for Climate Empowerment must lead to guaranteeing the rights to access to information, participation in public affairs, freedoms of expression, association and peaceful assembly, as well as the right of Indigenous Peoples to free, prior and informed consent in all climate decisions affecting their rights at national, regional and international level. The COP Presidency and the UNFCCC should ensure that all representatives of Indigenous peoples and civil society organizations have full and equitable access to COP27 and all future climate change negotiation processes.<sup>34</sup>

States must prioritise reducing absolute emissions by urgently phasing-out fossil fuels and shifting to renewable energy produced in a manner consistent with human rights, rather than relying on carbon markets and carbon removal mechanisms. When engaging in carbon offsetting projects, they must implement their human rights obligations and ensure human rights are not violated in the process. This includes carrying out human rights assessment of projects ahead of their implementation and continuing to monitor throughout the process, whilst ensuring meaningful consultation of all affected parties and respecting the rights of Indigenous peoples to free, prior and informed consent. In future climate change negotiations, states must also adopt decisions that ensure the human rights references included in the COP26 decisions on carbon markets and other cooperative approaches translate in concrete human rights protection measures and establish a fully independent grievance mechanism to provide redress to victims of human rights violations.

<sup>33</sup> Draft Decision 1/CP.26, 13 November 2021, para. 66, [https://unfccc.int/sites/default/files/resource/Overarching\\_decision\\_1-CP-26\\_1.pdf](https://unfccc.int/sites/default/files/resource/Overarching_decision_1-CP-26_1.pdf)

<sup>34</sup> At COP26, representatives of civil society organizations and Indigenous peoples faced obstacles to their meaningful participation in the negotiations and other activities, such as unprecedented restrictions to access the majority of the conference venue and a system of ticketing that restricted access to only two people per constituency during the World Leaders Summit, long delays in accessing the venue, and difficulties in accessing the online platform. These issues prompted the UN Special Rapporteur on Human Rights and the Environment and the UN Special Rapporteur on Hazardous Substances and Human Rights to address a letter of concern to the UK COP26 Presidency. See <https://drive.google.com/file/d/1UhnGKKqTQHCE1eJjh8IaC2yjGjkMjqJd/view>