



# Why climate justice is not just about reducing greenhouse gas emissions

An integrative  
human rights approach  
to climate justice

**ECCHR**

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JUST ABOUT REDUCING  
GREENHOUSE GAS EMISSIONS**

**AN INTEGRATIVE  
HUMAN RIGHTS APPROACH  
TO CLIMATE JUSTICE**

**A POSITION PAPER**

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## OUR AREAS OF WORK

ECCHR's work aims at bridging the gap between current legal interventions in Europe and the needs of those most affected by the climate crisis. This premise frames ECCHR's three focus areas in the field of climate justice:

Climate reparations  
as a human rights issue

**P.11**

Just transition  
to a low-carbon future

**P.14**

Defense of natural  
ecosystems  
and human rights

**P.19**



# Summary

ECCHR’s work on climate justice is guided by two assumptions. Firstly, we understand the climate crisis<sup>1</sup> as a complex, multidimensional global phenomenon, which constitutes a major risk to the lives of billions of humans, as well as nonhuman species and ecosystems around the globe. Climate change has already led to widespread adverse impacts and losses and damages affecting humans and nature, and threatens to do so even more in the future. Many rightfully see the climate crisis as the greatest threat ever to human rights.<sup>2</sup> Secondly, our work is based on the understanding that the struggle for climate justice cannot be limited to reducing emissions, but must actually address the root causes of the climate crisis. This includes challenging the legacy of colonial practices, along with the current hegemonic economic model that relies heavily on fossil fuel energy and the exploitation of natural and human resources, primarily in the Global South.<sup>3</sup> Against this background, this position paper outlines three dimensions of the climate crisis where, in our view, a human rights-based approach seems most urgent, and which also frame ECCHR’s focus areas in this field.

The realisation of climate justice cannot be limited to reducing CO<sub>2</sub> emissions. It must also address the root causes of the climate crisis

- 1 While the term climate crisis may be accurate considering its scale, complexity and urgency, it is important to keep in mind that other notions generally associated with “crisis,” such as being unexpected, or that a return to “normality” is possible, do not apply in the case of global warming and its far-reaching impacts.
- 2 United Nations (2019, September 19), Global update at the 42nd session of the Human Rights Council. *Opening statement* by UN High Commissioner for Human Rights Michelle Bachelet.
- 3 We acknowledge that there are limitations attached to using the term “Global South” to refer to heterogeneous realities, which leaves out important considerations of the complicated roles played by so-called developing and developed nations in the context of climate change. Nevertheless, as argued by Jacqueline Peel and Joeline Lin, “there is still value in the Global South grouping as the basis for an analysis of transnational climate litigation, not least because it is these countries—situated in Asia, the Pacific, Africa and Latin America—that are among the most vulnerable to impacts from climate change.” See Richardson, B. J., Le Bouthillier, Y., McLeod-Kilmurray, H., & Wood, S. (2009). Introduction: Climate law and developing countries. In *Climate Law and Developing Countries: Legal and Policy Challenges for the World Economy*, 1, 5–6; Peel, J., & Lin, J. (2019). Transnational climate litigation: The contribution of the global south. *American Journal of International Law*, 113(4), 679–726.

# Introduction

## THE CLIMATE CRISIS EXACERBATES PRE-EXISTING INEQUALITIES

While the impacts of climate change extend to all regions of the earth, they do not affect everyone equally. Communities and individuals who have historically contributed least to climate change, and who have benefited least from the economic processes that have precipitated it, are disproportionately affected. In addition to the climatic factors linked to specific geographical locations, people living in regions with significant development constraints are highly vulnerable to climate hazards because they lack the resources to respond adequately to the effects of climate change. The Intergovernmental Panel on Climate Change’s (IPCC) *Assessment Reports* have repeatedly noted that such climate vulnerabilities are aggravated by inequality and marginalization linked to, inter alia, gender, ethnicity, disability, age, economic poverty and historical and ongoing patterns of inequity.<sup>4</sup>

While the impacts of climate change extend to all regions of the earth, they do not affect everyone equally

Responsibility for these impacts lies with the world’s top 10% of carbon emitters, who are the source of almost half of global greenhouse gas emissions.<sup>5</sup> Research has shown that 108 corporations—the so-called “Carbon Majors”—have generated over 70% of global greenhouse gas emissions since industrial times.<sup>6</sup> Through their historical contributions to global warming, wealthy, industrialized nations and powerful corporate actors have secured economic growth and profit at the expense of racially, economically and socially marginalized groups in both the Global North and the Global South.

These unequal burdens and benefits are in part the result of historical and ongoing injustices. Their roots can too often be found in an economic system that functions within the paradigm of unlimited growth, while simultaneously externalizing the social and environmental costs of production and distribution, alongside centuries of European colonialism that has enabled the past and current patterns of exploitation which sustain this system.

- 4 IPCC (2022), *Summary for Policymakers*. In: *Climate Change 2022: Impacts, Adaptation and Vulnerability*. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, at B.2.4; IPCC (2014), *Summary for policymakers*. In: *Climate Change 2014: Impacts, Adaptation, and Vulnerability*, Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, at p. 6.
- 5 Chancel, L., Bothe, P., & Voituriez, T. (2023). *Climate Inequality Report: Fair Taxes for a Sustainable Future in the Global South*.
- 6 Griffin, P. (2017). *The Carbon Majors database CDP carbon majors report 2017*. These 108 largest emitters are from the fossil fuel industry alone, including companies such as ExxonMobil, Shell, BP, Total SA, and RWE. A previous study on the largest carbon emitters also focused on the cement industry, finding cement manufacturers such as HeidelbergCement and Holcim to be among the largest 90 emitters. Heede, R. (2014). *Carbon Majors: Accounting for Carbon and Methane Emissions 1854–2010*.

## HUMAN RIGHTS AS A PREREQUISITE FOR CLIMATE JUSTICE

The climate crisis intersects with a series of multidimensional social, economic and environmental crises, underpinned by social inequality across the globe. This means that the struggle for climate justice cannot be meaningfully advanced in isolation from the struggle for racial, social and economic justice. In this context, we at ECCHR believe that human rights can and ought to play an important role in these struggles, by setting the parameters for policy-making and challenging the underlying structural injustices of the climate crisis. Climate justice encompasses a vast array of interrelated issues, such as demands for financial and technological transfers as compensation for ecological and climate debts based on historical responsibility, as well as the recognition of the unequal distribution of climate hazards. Grassroots movements, especially in the Global South, are equally concerned with issues of food and land sovereignty, workers', women's and indigenous rights, along with effective participation of those affected in decision-making processes.<sup>7</sup> For many of these concerns, a human rights perspective helps to frame the call for climate justice by making concrete claims on those responsible for rights violations in the context of the crisis, while also pursuing the realization of universally accepted human rights standards.

The struggle for climate justice cannot be meaningfully advanced in isolation from the struggle for racial, social and economic justice

In the practice of ECCHR, this means working closely with our partners and affected communities to create joint transnational legal interventions. We strive to create participatory political and legal spaces in Europe—and increase accessibility to those which already exist—for those affected to share their local experiences of climate change and put forward their demands for adaptation and reparation measures needed to effectively address the impacts of the crisis.

A human rights lens facilitates the legal framing of the negative impacts of global warming. By demonstrating that droughts, floods, rising sea levels and other extreme and slow-onset weather events threaten the right to life, health, food, a healthy environment and an adequate standard of living, among other rights, such an approach helps to attribute responsibility to state and non-state actors for the violation of such rights in the context of climate change. At the same time, however, human rights violations arise not only from the impacts of a changing climate, but also from measures taken against it. For example, green energy or carbon compensation projects, developed without properly consulting affected communities, can result in loss of access to land and livelihoods, cultural heritage and traditional ways of life. In addition, the lack of proper consultation itself constitutes a human rights violation by infringing upon the right to Free Prior and Informed Consent.

<sup>7</sup> Schlosberg, D., Collins, L. (2014). *From Environmental to Climate Justice: Climate Change and the Discourse of Environmental Justice*. WIREs Clim Change 2014. doi: 10.1002/wcc.275.

Once again, it is those who have contributed least to climate change that are forced to bear the costs of adaptation and mitigation measures. In fact, as the climate crisis intensifies, so too does the violence directed against those who defend their land and ecosystems, which are vital for biodiversity and the climate. This is particularly true in the context of resource exploitation in countries within the Global South.<sup>8</sup> Meaningful climate action thus requires the protection of both climate and environmental defenders.

Although the multiple ways in which climate change negatively affects economic, social and cultural rights have been extensively documented, global efforts to address climate change tend to focus on technical approaches to reducing greenhouse gas emissions and costly adaptation measures. Meanwhile, industrialized countries fail to meaningfully address the financial and non-financial losses and damages suffered by the most vulnerable societies in the Global South; nor do they contribute sufficiently to sustainable adaptation measures that would enhance the capacities of these societies to respond to the climate crisis. In addition, they fail to prevent environmentally destructive economic activities that further undermine such capacities.

## ECCHR'S ROLE IN THE CLIMATE JUSTICE LITIGATION MOVEMENT

In recent years, courts in Europe have seen an increase in the number and diversity of climate cases brought before them. However, the majority of these cases have sought more ambitious climate policies and measures from both governments and corporations concerning the reduction of greenhouse gas emissions in accordance with the Paris Agreement's 1.5°C limit.<sup>9</sup> While mitigation measures remain of decisive importance in the attempt to avert the devastating impacts of climate change in the future, this approach falls short of addressing the manifold impacts of the climate crisis already underway.

There is a gap between legal efforts in Europe and the needs of communities already suffering the consequences of climate-related impacts

In the context of our work on climate justice, we held workshops and exchanges with partners and affected communities from Latin American, Asian and African countries that demonstrated that there is a gap between legal efforts in Europe and the needs of communities already suffering the consequences of climate-related impacts, including economic and non-economic losses and damages. In this context, making an explicit connection between climate change and economic, social and cultural rights becomes increasingly important.

<sup>8</sup> Global Witness (2021, September). *Last Line of Defence*; Tran, D., & Hanaček, K. (2023). A global analysis of violence against women defenders in environmental conflicts. *Nature sustainability*, 1–9.  
<sup>9</sup> Setzer, J., Narulla, H., Higham, C., & Bradeen, E. (2022). *Climate Litigation in Europe: A summary report for the European Union Forum of Judges for the Environment*. Grantham Research Institute on Climate Change and the Environment.

Our partners maintain a broad perspective on the climate crisis, emphasizing not only the need to curb emissions for the future, but also to address already existing negative impacts of climate change, as well as those of certain mitigation and adaptation measures.

Similarly, climate regulatory and litigation landscapes have only recently begun to address the responsibility of private economic actors in the context of climate change. For centuries, business activities have contributed to the climate crisis not only by emitting greenhouse gases, but also by causing environmental destruction that diminishes the resilience of both ecosystems and affected people in countering or at least coping with climate change. In particular, the so-called “Carbon Majors” have done this, despite knowing for decades that their products would contribute to climate change and its devastating impacts, especially in the fossil fuel industry.<sup>10</sup> Companies have often engaged in efforts to fend off political measures aimed at fighting climate change that they consider a threat to their business, including lobbying against ambitious emission reduction goals at the UNFCCC negotiations<sup>11</sup> or against binding human rights, environmental and climate due diligence obligations.<sup>12</sup> At the same time, it is becoming increasingly apparent that large corporations and their investors will also be the ones to profit most from efforts to mitigate further global warming at the expense of human rights and the environment. This corporate capture of the climate crisis reveals itself in greenwashing, windfall profits and irresponsible business practices in emerging markets that claim to pave the way toward a low-carbon future.

ECCHR’s legal interventions  
are carried out in partnership  
with affected communities and  
are informed and inspired by  
their visions of climate justice

As a human rights organization involved in transnational strategic litigation, ECCHR brings its expertise to climate justice work by aiming to bridge the gap between current legal interventions in Europe and the actual needs of those most affected by the climate crisis. Our legal interventions are carried out in partnership with affected communities from the Global South, along with their representatives and lawyers, and are informed and inspired by their visions of climate justice.

<sup>10</sup> Franta, B. (2021, October 29). What Big Oil knew about climate change, in its own words. *The Conversation*.

<sup>11</sup> Niranjana, A. (2021, November 16). Lobbying threat to global climate action. *dw.com*.

<sup>12</sup> Corporate Europe Observatory (CEO), Friends of the Earth Europe, & European Coalition for Corporate Justice (ECCJ). (2021). *Off the hook? How business lobbies against liability for human rights and environmental abuses*.

## Climate change before the European Court of Human Rights

While ECCHR is focused on supporting those affected by injustices in the Global South, it is clear that many of the same social and economic factors that lead to increased vulnerability, such as discrimination, racism and economic deprivation, also affect people in societies in the Global North. Governments worldwide are failing to do what is necessary to counteract climate change. Through their inaction, they violate human rights. In 2021, ECCHR and several partners filed two joint amicus curiae interventions with the European Court of Human Rights in the cases of *Verein Klima-seniorinnen Schweiz and Others v. Switzerland* and *Duarte Agostinho and Others v. Portugal and 32 Others*. The interventions emphasized, among other aspects, the human rights duties of states to effectively regulate and hold business enterprises accountable for their outsized role in environmental degradation and the accelerating climate crisis.





PARI WOMEN FIGHTING TO SAVE THEIR ISLAND © HEKS



THE INDONESIAN ISLAND OF PARI, WHICH LIES JUST ABOVE SEA LEVEL © HEKS

## Climate reparations is a human rights issue

As the climate crisis intensifies, its effects increasingly contribute to loss and damage (L&D) around the world, particularly affecting those in the colonially designated non-white regions in the world. In spite of this pressing scenario, efforts at the UN level have so far failed to secure financing for vulnerable states to address L&D. The historical reluctance of industrialized countries to frame L&D in terms of climate reparations—for fear of creating a legal basis for liability or compensation—persists in international negotiations. The decisions taken at the UNFCCC level to establish a fund to assist developing countries in responding to L&D is an important step forward, but it has yet to be materially operationalized and adequately resourced to meet the needs of those most affected.

The historical emissions of the Global North have continuing ecological, political and social effects that have yet to be repaired and that threaten the ability of future generations to live in dignity. Along these lines, demands for climate reparations, particularly from people and nations in the Global South, are closely linked to historical responsibility for climate change and colonial legacies that have contributed to the increased vulnerability of those on the front lines of the crisis. The concept of climate reparations, in contrast to the current L&D framework of the UNFCCC, is rooted in legal responsibility. Climate reparations can be understood as efforts to redress significant societal harms through the recognition of wrongdoing and the provision of financial and in-kind means.<sup>13</sup> Reparations would also entail the implementation of measures aimed at addressing and repairing widespread damage, which would require a structural approach capable of ensuring that the harm is not repeated.<sup>14</sup>

In the context of climate change, these reparations would require accountability from the states and private corporations that have historically contributed the most to global greenhouse gas emissions. Another important aspect of climate reparations concerns the funding of adaptation measures,<sup>15</sup> which so far is often provided in the form of development aid or loans. Rather than exacerbating the debt crisis in many countries of the Global South, which is seen by some experts in the field as a major obstacle to adequate climate action in these countries,<sup>16</sup> financing adaptation should be a legal obligation for the major polluters—states, as well as corporations, historically responsible for climate change. In the context of international human rights law, the concept of climate reparations primarily concerns obligations of states.

<sup>13</sup> Chapman, A. R., & Ahmed, A. K. (2021). Climate justice, human rights, and the case for reparations. *Health and human rights*, 23(2), 81.

<sup>14</sup> Ibid.

<sup>15</sup> Langmack, F. J. (2023). Remedies for Climate Change—A Decisive Push Towards Paris?. In *Netherlands Yearbook of International Law 2021: A Greener International Law—International Legal Responses to the Global Environmental Crisis*, 23.

<sup>16</sup> Woolfenden, T. (2023). *The Debt-Fossil Fuel Trap: Why Debt Is a Barrier to Fossil Fuel Phase-out and What We Can Do About it, Debt Justice*.



However, legal interventions against corporations can advance the discourse on climate reparations by demonstrating that climate change-induced financial and non-financial loss and damages can be framed as a legal responsibility. L&D cases represent a legal avenue with the potential to narrow the current corporate climate accountability gap by offering the possibility to obtain legal remedies at the national level that are not yet accessible within negotiations at the international level. These lawsuits not only enable rights holders to bring concrete claims for reparations, but also create spaces of transnational dialogue, in which those most affected are protagonists. Furthermore, L&D litigation operates as an additional lever that can shape decision-making within the realm of international negotiations, bringing it into alignment with the demands of those on the front lines of the climate crisis.<sup>17</sup> While we recognize the limitations of law in addressing the complexities of climate change, our legal interventions in this area aim to address the issue of climate reparations at a structural level, targeting those with the greatest responsibility—primarily corporations—while supporting the claims of those most affected. Transnational L&D litigation thus offers an opportunity to achieve both a successful adjudication of rights in a particular case and the establishment of new legal standards that can catalyze change, while problematizing the extractivist practices that led to the climate crisis in the first place.

The historical emissions of the Global North have continuing ecological, political and social effects that have yet to be repaired and that threaten the ability of future generations to live in dignity

Against this background, together with the Swiss Church Aid organization HEKS and WALHI—Friends of the Earth Indonesia, ECCHR has been supporting the inhabitants of Pari Island in the world’s first transnational climate litigation case on L&D, which was filed in Switzerland in 2023. to the world’s first transnational climate litigation case on L&D, which was filed in Switzerland in 2022. Inspired by the case of *Luciano Lluylia v. RWE*, the [civil lawsuit](#) was filed by four Indonesian islanders demanding compensation from the Swiss cement producer Holcim for the damages it has contributed to through its historical CO<sub>2</sub> emissions, alongside claims to require the company to reduce emissions in the future and to contribute to adaptation measures to protect the island from further damages. As climate-related losses and damages continue to grow exponentially, we will continue working with our partners to develop further legal interventions aimed at securing reparations for those most affected.

Our work on L&D has allowed us to engage with the academic community to bring otherwise less-visible issues into the center of legal and academic debates on climate litigation and, in particular, climate reparations. Furthermore, it entails a continuous interdisciplinary dialogue with climate scientists and affected communities.

## Asmania et al. v. Holcim

Climate change has led to steadily rising sea levels around the Indonesian island of Pari for years, threatening the livelihoods of the island’s inhabitants, who face more frequent and severe flooding. By 2050 at the latest, most of the island will be underwater. The people of Pari are among those who have contributed the least to climate change, but they nonetheless bear its negative financial and non-financial impacts.

In January 2023, Asmania, Arif, Edi, and Bobby, four residents of the island, supported by WALHI—Friends of the Earth Indonesia, ECCHR, the Swiss Church Aid organization HEKS, and the whole community of Pari island, filed a civil lawsuit in Switzerland against Holcim, the world’s largest cement producer. Holcim is among the 50 greatest corporate CO<sub>2</sub> emitters worldwide.

They demand that Holcim:

- redress the climate induced damages on Pari island in proportion to their historical greenhouse gas emissions,
- reduce its absolute greenhouse gas emissions by 43% until 2030 (based on values from the year 2019), and
- contribute to climate change adaptation measures on Pari island.

As to Holcim’s historical emissions, the plaintiffs rely on a study by Richard Heede/Climate Accountability Institute. Regarding climate change impacts and related losses on Pari Island, they rely on a study by the Global Climate Forum in Berlin. After the plaintiffs were granted legal aid, the case is now being assessed by the Civil Court of Zug.



## Just transition to a low-carbon future

A world with significantly lower greenhouse gas emissions cannot be achieved without major changes to our economies and societies that are heavily dependent on fossil fuels and other emission-intensive products. Such significant changes leave their mark: the development of new energy markets generates new financial profits and jobs, burning less polluting fuels improves air quality, and better insulation keeps homes warm. At the same time, workers in the fossil fuel industries might lose their jobs, carbon taxes, if not carefully designed, can burden those who are already struggling to make ends meet, and the quest for new resources for low-carbon technologies and products can lead to negative impacts on the people and ecosystems connected to such resources. While we need a profound and comprehensive transformation of our economic and political systems, it is crucial that it does not exacerbate existing inequalities that have often resulted from exactly these systems. In order for the transition to a low-carbon future to be just, it must address questions of burdens and benefit-sharing, along with participation. While a just transition, at the very minimum, requires that it does not harm those who are already most vulnerable, it also offers great potential to reimagine the ways our economies and societies are structured. The goal must be to find ways of cohabitation locally and globally that recognise a healthy environment as a precondition for social justice and which aim to realize human rights—including social, economic, cultural and environmental rights, while allowing these rights to shape the parameters of decision-making along the way.

In order for the transition to a low-carbon future to be just, it must respect human rights and address questions of burdens and benefit-sharing, along with participation

While such concerns about a just transition apply particularly to state action, they are equally relevant with respect to companies and investors that play a significant role in this transformation, from the development and scaling-up of new technologies, to the exploration and establishment of new markets. In particular, in cases where these new markets are linked to resources in the Global South, far away from the public eye and the institutions within the home states of many of these economic actors, the risk of human rights violations becomes particularly acute.

One example of this is the development of renewable energy projects. While extractive industries have started to shift from fossil fuels to “clean energy,” their modus operandi continues to be the ever-increasing extraction of resources, be it minerals necessary for “green” technologies, water, or land. At the same time, the main driver of the shift to green energy is still profit. If unchecked by human rights and environmental obligations, this incentivizes companies to pay little attention to the negative impacts of their business activities on affected communities—especially in cases where addressing them would make business operations costlier or even impossible. Land rights and the right of Free, Prior and Informed Consent of local communities are frequently ignored, while water-intensive practices, such as lithium and nickel mining, are often reported to go hand in hand with human rights violations and environmental degradation. The claim that companies are serving the energy transition, which is a necessary and urgent goal, has made it easier for them to deprioritize respect for human rights—especially when such claims are tied to the argument of economic development that has been mobilized so often in the past to justify harmful infrastructure projects, factories, or mining operations. Although couched in the narrative of addressing climate impacts, their activities may continue to negatively affect the future of this planet, as well as its limited resources and people living on it.

Although couched in the narrative of addressing climate impacts, business activities can also negatively affect the future of this planet, its limited resources and people living on it

Observations similar to those concerning the energy transition can be made about other market initiatives that are intended to serve the transition to a low-carbon future, for example, regarding the field of carbon compensation. Carbon compensation schemes allow emissions to be offset against the carbon that is reduced elsewhere or that is absorbed by natural carbon sinks, such as forests or swamps, in the form of so-called carbon credits that are aimed at financing nature conservation and forestation projects, among others. Such schemes are currently assigned a considerable role in efforts to remain below the 1.5°C limit of the Paris Agreement, in the form of voluntary and regulatory carbon markets, as well as part of regional and national cap and trade mechanisms.

There has been consistent criticism that the promotion of carbon offsetting as a route to a low-carbon future enables governments and businesses to avoid taking necessary climate action to effectively reduce emissions.<sup>18</sup> This is particularly problematic in light of criticism of carbon offsetting related to issues of double-counting<sup>19</sup> and false calculations,<sup>20</sup> the temporary nature of plant-based carbon storage,<sup>21</sup> and even the destruction of important ecosystems through the establishment of monocultures in “afforestation” projects.<sup>22</sup> In addition to being highly questionable in their effectiveness in reducing overall global emissions, another major concern—raised by ECCHR’s partners in the Global South, among others—is the existence of widespread human rights violations associated with carbon offset projects, which often fail to properly consult affected communities, neglecting their concerns.<sup>23</sup> While many of these communities have suffered and continue to suffer from extractivist mining, logging or other land-intensive business practices, some of them are now also facing dispossession, social polarization and criminalization resulting from carbon compensation projects—sometimes even run or financed by the same extractivist companies.

ECCHR seeks to fill the existing human rights gap in both public discourse and litigation efforts surrounding the transition to a low-carbon future

While the protection of ecosystems must undoubtedly be a crucial part of the response to the climate crisis, the carbon offsetting industry exemplifies the structural dysfunctions of mainstream climate action that perpetuate the exploitation of people and planet that led to the crisis in the first place. Both carbon compensation and energy transition are fields of great relevance to our partners and to our work, which aims to defend spaces of participation and recourse for affected communities in the Global South. In doing so, we seek to fill the existing human rights gap in both public discourse and litigation efforts surrounding the transition to a low-carbon future. Our work thus aims to reaffirm and delineate corporate responsibilities and states’ human rights obligations to adopt and enforce human rights-based measures also in the context of fighting the climate crisis, domestically as well as extraterritorially.

<sup>18</sup> Romm, J. (2023). Are carbon offsets unscalable, unjust, and unfixable—and a threat to the Paris Climate Agreement? *Penn Center for Science, Sustainability, and the Media*.

<sup>19</sup> Ibid.

<sup>20</sup> Greenfield, P. (2023, January 30). Revealed: more than 90% of rainforest carbon offsets by biggest certifier are worthless, analysis shows. *The Guardian*.

<sup>21</sup> Cullenward, D. (2023). Mortgaging the atmosphere: Why temporary carbon storage is risky and cannot replace emission reductions. *Carbon Market Watch*.

<sup>22</sup> Aguirre-Gutiérrez, J., Stevens, N., & Berenguer, E. (2023). Valuing the functionality of tropical ecosystems beyond carbon. *Trends in Ecology & Evolution*.

<sup>23</sup> Haya, B. K., Alford-Jones, K., Anderegg, W. R., Beymer-Farris, B., Blanchard, L., & Bomfim, B. (2023). Quality Assessment of REDD+ Carbon Credit Projects. *Berkeley Carbon Trading Project*. 153 et seq.



WIND PARKS ARE BEING BUILT  
ON INDIGENOUS LAND © PRODESC

HIGHLY TOXIC PESTICIDES ENDANGER  
BIODIVERSITY AND HUMAN HEALTH © NMAP



## EDF wind park disregards indigenous rights

Like many indigenous communities, the community of Unión Hidalgo in Oaxaca, Mexico, maintains a special historical and cultural connection to their land. When the French energy company EDF sought to develop a wind park project on their territory, it failed to obtain the community's Free, Prior and Informed Consent (FPIC). Those critical of the project were stigmatized, threatened and even physically attacked, while EDF did nothing to intervene and even allegedly offered benefits to supporters of the project. In 2020, members of the community of Unión Hidalgo, the Mexican organization ProDESC and ECCHR filed a lawsuit against EDF under the French Loi de Vigilance. The Mexican government has cancelled the project in the meantime. However, the proceedings in France continue to reaffirm the corporation's obligation to respect indigenous rights, as well as seek indigenous compensation claims for damages already incurred.

## Defense of natural ecosystems and human rights

Extractive industries and industrial agriculture, as well as infrastructure and energy management projects, are all based on the exploitation of natural resources. These unsustainable business models lead to the destruction of global biodiversity and have detrimental impacts on the human rights of local populations. In this context, environmental degradation exacerbates the climate crisis both by reducing the planet's ability to offset greenhouse gas emissions and by disproportionately affecting communities that are racially, socially and economically marginalized, thereby increasing their vulnerability to climate change.

Human rights law provides us with a framework for responding to the climate and environmental hazards of business activities by condemning their negative impacts on the rights of those inhabiting the territories concerned

Against this background, it is clear that the climate crisis is not just about reducing CO<sub>2</sub> emissions, but also about addressing issues of biodiversity loss, environmental pollution, land grabbing and food sovereignty. Limiting global warming to ensure a habitable climate and protecting biodiversity are mutually supporting goals.<sup>24</sup> Their achievement is essential for the realization of human rights, especially for indigenous, peasant and rural communities whose livelihoods depend on the natural ecosystems they inhabit. The acknowledgement of this interdependence between humans and nature also involves recognition of the complex ecological systems and processes that support the common—and often contested—resources upon which the realization of rights depends. While the logic that underpins our current economic model does not embrace this notion of interdependence, human rights law provides us with a framework for responding to the climate and environmental hazards of business activities by condemning their negative impacts on the rights of those inhabiting the territories concerned.

<sup>24</sup> Pörtner, H. O., Scholes, R.J., Agard, J., Archer, E., Arneth, A., Bai, X. & Ngo, H.T. (2021). IPBES-IPCC co-sponsored workshop report on biodiversity and climate change. *IPBES and IPCC*, 10.

One emblematic example of such realities lies within the agrochemical sector. Four multinational agrochemical corporations from the Global North dominate the global market for pesticides, fertilizers and genetically modified seeds: Bayer, BASF, Syngenta and Corteva. For several decades, they have promoted a pesticide-based agro-industrial model that has expanded at the expense of the environment, biodiversity and human rights, particularly in the Global South, where their hegemonic market power is primarily exercised. This model is characterized by the large-scale cultivation of genetically modified (GM) seeds, extensive pesticide use, high levels of land concentration, deforestation and monocultures. As a result, such business practices endanger food security, degrade biodiversity and perpetuate the climate crisis. The negative impacts of this model on ecosystems inhabited by rural, peasant and indigenous communities threaten both the integrity of ecosystems and the livelihoods of those who depend on it. Actively addressing this interconnectedness, whether through policy or legal intervention, is key to advancing a holistic realization of climate justice.

ECCHR's work in this specific area aims to address these impacts through legal interventions that tackle double standards, seek redress for affected communities and drive change in business practices through transnational accountability.

There is a need for a more forward-looking human rights perspective that can encompass the protection of the entire web of life as an interdependent community composed of human and non-human life

As we continue to work with our partners and affected communities on the protection of ecosystems and human rights, it is becoming increasingly clear that there is a need for a more forward-looking human rights perspective that can encompass the protection of the entire web of life as an interdependent community composed of human and non-human life. This is a goal that requires critical and open dialogues, especially with those on the front lines of the climate crisis, to develop new legal categories and concepts such as the rights of nature, biocultural rights and the rights of future generations.

## Syngenta pesticides endanger nature and farm workers

The intensive use of pesticides puts human health at risk and contributes significantly to biodiversity loss, the degradation of ecosystems, as well as to climate change. Every year, around 385 million people suffer poisoning from pesticides.<sup>25</sup> In Yavatmal in the state of Maharashtra, India, hundreds of farmworkers were poisoned in 2017, in some cases fatally. Police records indicate that the Swiss chemical company Syngenta's pesticide Polo was involved in these poisonings. As a result, 51 affected persons filed an OECD complaint against Syngenta in Switzerland with the support of ECCHR and its partners, the Pesticides Action Network (PAN) India and the Swiss organization Public Eye. In addition, the widows of two victims and one survivor filed civil lawsuits with the support of ECCHR and its partners against Syngenta for damages in September 2020. In 2022, the OECD proceedings ended without agreement due to a questionable interpretation by the Swiss OECD National Contact Point (NCP) of procedural obstacles to discussing remedy and the company's unwillingness to effectively amend its policies. Meanwhile, the court of Basel is assessing the lawsuits, after the plaintiffs were granted legal aid.

<sup>25</sup> Boedeker, W., Watts, M., Clausen, P. et al. (2020). The global distribution of acute unintentional pesticide poisoning: estimations based on a systematic review. *BMC Public Health* 20, 1875.



# Conclusion

The world must urgently accelerate efforts to limit global warming to no more than 1.5°C in order to prevent further harm to billions of people and the planet's natural systems. However, a holistic response to climate change requires more than reducing greenhouse gas emissions. It also involves addressing the structural inequalities that are at the root of the multidimensional, complex global phenomenon that is the climate crisis. To meaningfully achieve this goal, the struggle for climate justice must go hand in hand with the struggles for racial, social and economic justice.

ECCHR's work on climate justice draws on this approach and seeks to advance the following points through transnational legal and political collaborations:

- Communities on the front lines of the climate crisis must be supported in their claims for redress for financial and non-financial loss and damages from the largest greenhouse gas emitters. The emerging concept of climate reparations helps to embed these claims in a forward-looking vision that, based on an acknowledgement of historical responsibility, promotes community-led and structural solutions that contribute to preventing the perpetuation of past and ongoing injustices. In this context, legal interventions against high-emitting corporations can strengthen the notion of climate reparations by demonstrating that the impacts of climate change can be framed in terms of legal responsibility.
- Measures aimed at keeping global warming below the 1.5°C limit established by the Paris Agreement must be guided by the principle of a just transition. International human rights standards set the parameters for business activities in this field, while states must ensure that these standards are upheld domestically and transnationally.
- Business activities that lead to environmental degradation and biodiversity loss must be challenged for their direct impact on the human rights of local populations and their contribution to the climate crisis. This includes any activities that threaten the life and well-being of environmental and human rights defenders.

- Finally, the climate crisis calls for further exploration of where existing standards of human rights need to be broadened in order to embrace a forward-looking perspective capable of encompassing the protection of the entire vulnerable living order, including human and non-human life. Emerging legal standards, such as the rights of future generations and the rights of nature, which have already been recognized in several national jurisdictions around the globe, are important developments in this regard. The same applies to international developments on the right to a clean, healthy and sustainable environment, as well as its practical implementation. At ECCHR, we continue to critically engage in discussions pertaining to these developments with scholars, practitioners and communities on the front lines of the climate crisis and to explore innovative paths towards action in this regard.

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