



Climate Action Network

Submission: Elements for the new Action Plan on Action for Climate Empowerment (ACE) and modalities for the in-session technical workshop on ACE

March 2022

Climate Action Network (CAN) is the world's largest network of civil society organizations working together to promote government action to address the climate crisis, with more than 1600 members in over 160 countries.

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Climate Action Network (CAN) welcomes the opportunity to provide its recommendations for the in-session technical workshop and future Action Plan, to be adopted at COP27, to enhance the implementation of Article 6 of the Convention and Article 12 of the Paris Agreement. As CAN's member organizations are involved on a day-to-day basis in activities related to the six thematic areas of Action for Climate Empowerment (ACE) at the local, national, and international level, CAN reiterates its commitment to support implementation of ACE and to work with state Parties to secure better integration of ACE into climate action.

CAN strongly believes that policy measures covered by Action for Climate Empowerment have the potential to act as catalysts for climate ambition and for a people-centered implementation of the Paris Agreement. CAN urges state Parties to adopt an ACE Action Plan that is coherent with relevant processes within and outside the Convention and the Paris Agreement, and that can support Parties in implementing effective, human rights-based climate policies.

Introduction

Climate policies must go hand in hand with protecting the rights of all people to ensure that everyone can contribute and have a say in climate responses and that no segment of society is left behind. In the Preamble of the Paris Agreement, state Parties stressed the importance of respecting, promoting, and considering their human rights obligations when taking action to address climate change. Many cases over the past years have showcased the negative impacts of technocratic climate policies that placed corporate profits and economic growth above the interest of people.

ACE is a key cross-cutting instrument that can help achieve implementation of the Paris Agreement and the Sustainable Development Goals, for which a people-centered approach is essential. The development and implementation of such people-centered policies require an inclusive policy-making process with effective and meaningful participation of the public. Such

engagement needs to be supported by providing stakeholders with the necessary tools including knowledge, transformative skills to drive the transition to a just and equitable low-carbon and climate resilient future, and the avenues to participate, as promoted by the elements of ACE. Policy-making that fosters the six ACE elements (education, training, public awareness, public access to information, public participation, and international cooperation) leads to more inclusive and effective climate policies, as it increases public ownership and builds the resilience of communities, thus driving the far-reaching changes so urgently needed.

The Intergovernmental Panel on Climate Change (IPCC) has recently acknowledged the importance of procedural rights in effective climate policy making, as well as the importance that Action for Climate Empowerment plays in this context. *“Procedural justice addresses the fairness of the processes by which decisions are made and the legitimacy of those making the decisions. Criteria include transparency, the application of neutral principles among parties, respect for participants’ rights, and inclusive participation in decision-making, which often takes the form of participatory processes. Article 6 of the Framework Convention creates a binding commitment on parties to promote public participation in addressing climate change. Increased participation by civil society in climate policy discussion, including new forums such as the Local Communities and Indigenous People’s Platform of the UNFCCC work toward this goal. Genuine, not merely formal, participation requires communities be well-acquainted with the climate change risks they face and are given a full voice in the process of adaptation planning. Many local communities, especially those most vulnerable to climate change, remain excluded, which is inconsistent with principles of procedural justice. In addition to a normative principle, models of decision making also suggest that diverse, representative decision makers can be expected to make better decisions than more limited groups.”*¹

A: Key elements for the effective implementation of the six elements of Action for Climate Empowerment

1. Action for Climate Empowerment’s linkages to human rights

The Paris Agreement and decision 1/CP.21 explicitly mention the importance of guaranteeing the rights and facilitating the participation of specific groups, including local communities, women, indigenous peoples and ethnic minorities, youth, children and the elderly, migrants, persons with disabilities, outdoor workers and persons in vulnerable situations. There exists a broad understanding in the climate regime that a rights-based approach leads to more inclusive, sustainable, and effective climate policies. This is not only reflected in the recognition of human rights in the preamble of the Paris Agreement, but also in other workstreams under the UNFCCC, including for instance the Gender Action Plan,² the Local Communities and Indigenous Peoples

¹ IPCC, 2022: Climate Change 2022: Impacts, Adaptation, and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [H.-O. Pörtner, D.C. Roberts, M. Tignor, E.S. Poloczanska, K. Mintenbeck, A. Alegría, M. Craig, S. Langsdorf, S. Löschke, V. Möller, A. Okem, B. Rama (eds.)]. Cambridge University Press. In Press, at 1-51.

² Decision 3/CP.25 (2019); https://unfccc.int/sites/default/files/resource/cp2019_L03E.pdf

Platform,³ and the Paris Committee on Capacity Building.⁴ Three of the six elements of ACE are internationally recognized human rights. The right to environmental education was recognized under the Convention on the Rights of the Child (ratified by all but one Party to the Paris Agreement), and procedural rights including access to information and public participation in environmental matters are a key component of international human rights law and of environmental governance (including Principle 10 of the 1992 Rio Declaration). The legally-binding Aarhus Convention and the Escazú Agreement reaffirm these rights. In its latest report, the IPCC recalled States' human rights obligations in the context of climate policy making, stating that "rights-based approaches rely on the normative framework of human rights, requiring adaptation to be non-discriminatory, participatory, transparent and accountable in both formal (e.g., legal and regulatory) and informal (e.g., social or cultural norms) settings and at international, national and sub-national scales."⁵

Numerous Party and non-Party stakeholders have highlighted these natural linkages between ACE and existing human rights principles and institutions, including in the context of consultations ahead of the adoption of the Glasgow Work Programme. Regretfully, despite a "human rights-based approach" being listed in the draft decision as one of the guiding principles of the new Work Programme, the text that was eventually adopted by Parties at COP26 failed to include it.⁶ Nonetheless, the Glasgow Climate Pack "*[u]rges Parties to swiftly begin implementing the Glasgow work programme on Action for Climate Empowerment, respecting, promoting and considering their respective obligations on human rights, as well as gender equality and empowerment of women*".⁷

Failing to include human rights as one of guiding principles of the Glasgow Work Programme was a huge missed opportunity, as taking a human rights-based approach to ACE would drive more inclusive development and implementation of ACE at the national level. By taking into account the specific needs and perspectives of the most disenfranchised communities with limited access to decision-making, a human rights-based approach would ensure that these communities are empowered and that ACE is implemented in a manner that truly "leaves no one behind". The Action Plan that will be adopted by Parties at COP27 provides the opportunity to fill this gap, and ensure a set of coherent activities that can support Parties in implementing the ACE elements in a coherent and structured manner.

2. The key contribution of Environmental Human Rights Defenders in effective climate policy making

The operationalization of the linkage between ACE and human rights also requires for ACE to address the situation of those working to demand climate action by exercising the rights of access to information and participation. Around the world environmental human rights defenders working

³ Decision 2/CP.24 (2018); <https://unfccc.int/sites/default/files/resource/10a1.pdf>

⁴ Decision 16/CP.22 (2017); <https://unfccc.int/resource/docs/2016/cop22/eng/10a02.pdf>

⁵ *Supra* note 1, at 8-77

⁶ Advanced unedited decision, available at https://unfccc.int/sites/default/files/resource/cop26_auv_3b_Glasgow_WP.pdf

⁷ Decision 1/CP.26, at 62 and 1/CMA.3, at 91

on climate justice are increasingly targeted with violence, harassment and criminalization. The UN Special Rapporteur on Freedom of Assembly and Association has documented such tactics in a report presented last year to the UN General Assembly.⁸ This context of violence and repression is especially true for Indigenous defenders, including women around the world. Most climate-damaging projects are located in indigenous lands or cross through indigenous territories, where the pattern of failures in the consultation processes, repression, and silencing of opposition movements continues and endangers the lives and livelihoods of already vulnerable populations. As the climate crisis worsens so does the violence against those protecting our environment. According to human rights group Global Witness 227 environmental defenders were killed in 2020, making it the most dangerous year on record since that organization started its reporting.⁹

International multilateral environmental agreements have already recognized the role of environmental defenders in the context of access to information and participation. In 2018, the regional agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, known as the Escazú Agreement, committed Parties to guarantee a “*safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity*”.¹⁰ The agreement also commits Parties to recognize, protect and promote the rights of environmental defenders and to take measures to prevent, investigate and punish attacks against them. More recently, Parties to the Aarhus Convention adopted a decision recognizing that environmental defenders are those who exercise their right under the Convention, calling on Parties to review their legal frameworks to take measures to protect environmental defenders in accordance with the Convention.¹¹ The decision also created a new mechanism in the form of an independent Special Rapporteur on environmental defenders to provide a rapid response to the violation of the rights of environmental defenders.

Important steps have been taken in the context of the Human Rights Council as well. Resolution 40/11 calls upon Parties “*[t]o facilitate public awareness of and participation in environmental decision-making, implementation, monitoring and follow-up and review of the 2030 Agenda for Sustainable Development, including of civil society, women, children, youth, indigenous peoples, rural and local communities, peasants and others who depend directly on biodiversity and the services provided by ecosystems, by protecting all human rights, including the rights to freedom of expression and to freedom of peaceful assembly and association, both online and offline*”.¹² It also “*[u]rges States to bear in mind the importance of the empowerment and capacity-building of*

⁸ UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Exercise of the Rights to Freedom of Peaceful Assembly and of Association as Essential to Advancing Climate Justice,” 23 July 2021

⁹ Global Witness. The last line of Defence. 2021

¹⁰ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, article 9

¹¹ Decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Geneva, October 2021.

¹² UN Doc A/HRC/RES/40/11, at 14(c) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/088/48/PDF/G1908848.pdf?OpenElement>

indigenous peoples, including their full and effective participation in decision-making processes in matters that affect them directly, and of consultations in order to obtain their free, prior and informed consent, and the important role indigenous human rights defenders play in this regard".¹³ The Geneva Roadmap 40/11 was subsequently launched in 2020 for the implementation of this resolution. It aims to provide a collective platform in which initiatives and commitments of States, civil society, research and academia or private actors could be supportive of each other.

Following these important precedents, the ACE Action Plan should first recognize the role of environmental defenders under ACE, and the importance of their work in the context of the climate crisis. The action plan should also include commitments for Parties to guarantee an enabling environment for environmental defenders working on ACE, and to ensure the protection of the rights to freedom of peaceful assembly and of association, access to information, and participation as essential to enabling the participation and mobilization of all stakeholders under the ACE framework.

3. The importance of addressing barriers to the implementation of the ACE elements

The past ACE Work Programmes have focused to a large extent on the identification and sharing of good practices, enabling mutual learning amongst state Parties and stakeholders. To complement and go beyond this work and to further contribute to the enhanced implementation of ACE, we believe that the new Work Programme should proactively review the barriers to the promotion of ACE and opportunities and good practices to overcome those. The IPCC has emphasized that civil society is essential to drive effective climate action. For communities and civil society leaders to effectively contribute to the implementation of climate action as promoted through ACE, an enabling environment must be guaranteed to give confidence to the public that they would not be the target of any personal threat as a result.

In its General Comment No. 25 on science and economic, social and cultural rights, the Committee on Economic, Social and Cultural Rights stressed the dangers associated with retrogressive measures taken in relation to the right to participate in and to enjoy the benefits of scientific progress, including "*the imposition of barriers to education and information on science; the imposition of barriers to citizen participation in scientific activities, including misinformation intended to erode citizen understanding and respect for science and scientific research*".¹⁴ The Committee stressed that States Parties have an obligation to "respect, protect and fulfil the right to participate in and to enjoy the benefits of scientific progress and its applications". It further explained that this requires that States parties refrain from interfering directly or indirectly in the enjoyment of this right. That would include, for instance, "*eliminating barriers to accessing quality science education and to the pursuit of scientific careers*", or "*refraining from disinformation, disparagement or deliberate misinformation intended to erode citizen understanding of and respect for science and scientific research*".¹⁵

¹³ *Ibid.*, at 16.

¹⁴ General comment No. 25 (2020) on science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights), at 24.

¹⁵ *Ibid.*, at 42

Through the new Action Plan, the Glasgow Work Programme should strive to build upon and amplify existing protection mechanisms and initiatives by Party and non-Party stakeholders that contribute to guaranteeing and protecting a safe environment for members of the public to enjoy the six elements of ACE - including from any threat that non-state actors might pose to the public involved in climate action. It should also enhance Parties' effort to put in place effective mechanisms to prevent and address conflict of interest in climate action at the national level - including by facilitating the sharing of experience through activities held under the Glasgow Work Programme. Activities under the new Action Plan should thus enable exchange of good practices, lessons learned and relevant knowledge, and strengthening of national institutions, in order to identify and address any hindrances and threats – as well as their enablers – to full and effective contributions of members of the public to climate action.

4. Monitoring and evaluation for Action for Climate Empowerment

Improving the quality and consistency of reporting on national processes would be essential to assess the extent to which Parties integrate the right to public participation and access to information, along with the other elements of ACE. For this purpose, specific indicators could be developed. The ACE Action Plan can help improve monitoring and reporting, in order to reliably evaluate the implementation of ACE components across Parties' climate action. ACE should be included into formal monitoring and reporting exercise as a requirement of National Communications and Nationally Determined Contributions, underpinned by an evidence-based approach to monitoring and reporting.

Moreover, tools and support to build Monitoring and Reporting technical capability should be identified and implemented, together with support sharing and collaboration amongst Member Parties and ACE actors, including financial mechanisms. Finally, a coordinated and flexible approach to Monitoring and Reporting should be developed. This should include evaluation, and feature a rigorous overarching international framework coupled with guidelines to support country-level implementation. In addition, we recommend that the ACE dialogue includes opportunity for discussion amongst ACE National Focal Points and Observer organizations, youth, Indigenous Peoples' organizations and marginalized groups, and the research community, of what constitutes quality ACE in different countries and contexts, and of robust and expanded data sources that can feed into new indicators to support all countries monitoring efforts.

B: Modalities for the in-session technical workshop at SB56

The in-session technical workshop will provide critical contribution to the elaboration of the draft ACE Action Plan, to be adopted at COP27. Among its objectives, it should aim to help Parties identify elements and dimensions that are essential for the effective implementation of the ACE pillars. For this reason, CAN believes that the in-session technical workshop should include a specific session to discuss what it means to have a **human rights-based approach to ACE**. Particular attention should be given to the issue of **environmental human rights defenders** and

barriers to the implementation of Action for Climate Empowerment. Another session should be dedicated to **monitoring and reporting.**

Action for Climate Empowerment has traditionally been one of the most inclusive processes, where observers had the opportunity to actively engage with State Parties in the context of informal consultations, workshops and Dialogues. In that context, it is essential that the in-session technical workshop that will be held at SB56 will be open to Parties and observers with the active participation of observers in line with the conclusions of the SBI34 (para. 21). It is essential that all activities under the Action Plan invite the active participation of civil society, youth and Indigenous Peoples' organizations, whose contribution is essential to advance the six pillars of ACE at the local, national, regional and international level. Thus, **we urge Parties to ensure that the in-session technical workshop includes the participation of observers.**

C: The future ACE Action Plan

At COP26, Parties requested the Subsidiary Body for Implementation to undertake the development of an action plan focusing on immediate action through short-term, clear and time-bound activities, guided by the priority areas set out in the Glasgow work programme, with a view to recommending a draft decision ahead of COP27.¹⁶

The UNFCCC has developed Work Programmes and Action Plans to drive the effective implementation of all key workstreams under the UNFCCC. Such work plans are critical in order to elaborate a mid-term implementation plan seeking to deliver key priorities through an incremental approach. State Parties should adopt a coherent and incremental Action Plan for ACE. To align with the implementation cycles defined in the Paris Agreement, the Action Plan should span a period of five years, allowing for substantive evaluation for the steps after. The Action Plan should set out the activities to be organized each year throughout the full term of the work programme and the concrete goals these activities pursue. Such an Action Plan could include activities and events such as in-session ACE dialogues, technical reports and background papers, and international and/or regional workshops addressing specific dimensions of ACE. The Action Plan should seek to address all six elements of ACE in a balanced manner.

Activities and events set forth in the Action Plan should be aligned with priorities and timeframes under the UNFCCC, including the gathering of information and lessons learned from the ongoing cycle of NDC enhancement and updating (2022), the Global Stocktake (2022-2023), and the preparation of new NDCs (2025). The adoption of a 5-year Action Plan would provide some visibility and clarity regarding how events and activities held under ACE contribute to a strategic vision and would ensure that despite limited resources, the Work Programme is well positioned to foster the implementation of the Paris Agreement. Specific activities should be designed to promote procedural rights in the implementation of the Paris Agreement; to ensure better

¹⁶ Decision -/CMA.3, Glasgow work programme on Action for Climate Empowerment (Advance Unedited Version), at 11(e), available at https://unfccc.int/sites/default/files/resource/cma3_auv_3b_Glasgow_WP.pdf

engagement and protection of Environmental Human Rights Defenders (EHRD) in the context of climate policy making; to address barriers to the implementation of ACE; and to improve monitoring and reporting.

At COP26, Parties failed to establish an expert mechanism, such as an ACE Task Force, under the Glasgow Work Programme. This would have promoted policy coherence between the implementation of ACE and that of other international frameworks and commitments relevant to the ACE pillars, among other things. Thus, activities under the ACE Action Plan should be crafted in a way that helps to break down silos across the UNFCCC workstream and between the UNFCCC and other outside processes that are relevant to the six pillars of ACE. Such activities should benefit from and include actors with diverse types of expertise (policy making, research, advocacy, etc.), bearing in mind regional and gender balance. The format of those activities will also be crucial to ensure effective exchanges and meaningful outcomes.

Below is a set of potential activities to be part of the action plan, across each priority area:

Policy coherence

- Map existing policies, actions and communications, including NDCs, national adaptation plans and other relevant policies and communications under the Convention, with respect to whether and how they incorporate elements of Action for Climate Empowerment
- Organize a workshop to consider opportunities to provide information related to the six elements of Action for Climate Empowerment in the Global Stocktake
- Ensure that members of constituted bodies are introduced to the relevance of the ACE elements in the context of their work in a consistent and systematic manner
- Facilitate the exchange of views and best practices of the Chairs of constituted bodies on how to strengthen the integration of ACE elements into their work
- Identify policies, actions and best practices of parties on promoting the participation of representatives of all stakeholders and major groups in the domestic preparatory processes related to the climate change negotiation process as well as in the national implementation of the UN Climate Agreements

Coordinated action

- Call for Party and non-Party stakeholders to report annually, through submissions, on the implementation of measures necessary to ensure the rights, protection and safety of all Environmental Human Rights Defenders' in the context of national climate policy
- Organize annual thematic training workshops to build capacity for promoting human rights-based climate action through the implementation of the ACE elements
- Strengthen coordination between the work on ACE elements of the subsidiary bodies under the Convention and the Paris Agreement and other relevant United Nations entities and processes, in particular human rights bodies and institutions

Tools and support

- Strengthen capacity-building efforts for governments and other stakeholders in mainstreaming the six elements of ACE in formulating, monitoring, implementing and reviewing, as appropriate, national climate change policies, plans, strategies and action, including nationally determined contributions, national adaptation plans and national communications
- Identify specific protection programme tools for Environmental Human Rights Defenders and opportunities to resource such initiatives

Monitoring, evaluation and reporting

- Include ACE reporting as a requirement of National Communications and Nationally Determined Contributions, underpinned by an evidence-based approach to monitoring and reporting
- Identify and implement tools and support to build Monitoring and Reporting technical capability and support sharing and collaboration amongst Member Parties and ACE actors, including financial mechanisms
- Develop a coordinated and flexible approach to Monitoring and Reporting. The approach should include evaluation, and feature a rigorous overarching international framework coupled with guidelines to support country-level implementation