

## **OHCHR views on Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change**

OHCHR welcomes the opportunity to submit its views on aspects of the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, in particular regarding operational modalities, structure, the role of the Executive Committee and its expert groups, task force and technical expert group, the role of L&D contact points and other relevant stakeholders and possible elements for the terms of reference of a potential convening or coordinating body that may provide secretarial services to facilitate work under the Santiago network.

### ***The case for a rights-based approach to loss and damage***

OHCHR has continuously engaged with the Warsaw International Mechanism and its Task Force on Displacement, to support rights-based climate action on loss and damage and advocate for effective remedies and protection measures for those who suffer human rights harms because of climate change. The [High Commissioner's Open-Letter to all member States in connection to COP25](#) included rights-based action to address loss and damage as one of three priority areas and ensuring those affected by climate change have access to remedy remains a top human rights priority for the Office.

Given the impacts of climate change on human rights, particularly visible in the context of loss and damage, and the call of the Paris Agreement preamble for Parties to “respect, promote and consider” their respective obligations on human rights when taking action to address climate change, explicit references to human rights should be included in the operationalization of the Santiago Network, for instance in the guiding principles to inform the work of the Network. This would also align with the Secretary-General's Call to Action for Human Rights, which includes a dedicated action area on climate justice and the rights of future generations, and with Our Common Agenda. The process of designing and operationalizing the Santiago Network should respect and protect human rights, including the rights to access to information, public participation, and access to justice.

### ***Operational modalities and structure***

Discussions on loss and damage must remain inclusive and transparent, with meaningful and informed participation of all constituencies and stakeholders. A commitment to rights-based action and processes should be integrated throughout the future work and operations of the Santiago Network, including in a section on principles guiding the efforts of the Network. Such a commitment would focus the work of the Network on those most affected by loss and damage. The Santiago Network should engage with and support the people most affected by climate change through implementation of relevant approaches at the local, national and regional levels.

### ***The role of the Executive Committee and its expert groups, task force and technical expert group***

The impacts of climate change on migration and the human rights of people on the move in the context of climate change were recently underlined by the Human Rights Committee in its decision in *Teitiota v. New Zealand* (2019). The Committee noted that “the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending States” (para. 9.11). OHCHR would suggest including a reference to addressing the human rights impacts of climate-related human mobility in the mandate of the Network. This would also serve to leverage the work done by the Task Force on Displacement.

It is also suggested that the Santiago Network build on the work of the expert group on non-economic losses, including synthesis tools developed by the expert group and its efforts regarding indigenous and local knowledge, and cultural heritage. Negative human rights impacts of climate change are often

“non-economic losses” and addressing them in human rights terms is critical to putting a human face on the harms caused by climate change.

***Possible elements for the terms of reference of a potential convening or coordinating body***

Human rights mechanisms can provide technical advice and support better understanding of the human rights dimension of loss and damage. Language on human rights, including the human rights of Indigenous Peoples, should be integrated into the terms of reference of a potential convening/coordinating body. The terms of reference should also promote policy coherence and effective implementation of existing commitments regarding human rights and the protection of the environment and contribute to other areas of work under the UNFCCC, including a just transition, action for climate empowerment, gender-responsive climate action with respect for women’s rights and the Local Communities and Indigenous Peoples Platform.

It is suggested that the convening or coordinating body draw on existing materials, including NDCs, NAPAs and the guidance and information related to human rights and climate change available on [OHCHR’s website](#) and through a review of the work of human rights mechanisms. [Examples include](#) recommendations on climate change and human rights within the Universal Periodic Review (including recommendations on loss and damage and extreme weather events), and the concluding observations and general comments of human rights treaty bodies.

***Conclusion***

OHCHR urges the integration of human rights in efforts to operationalize the Santiago Network, and is happy to provide technical support for rights-based climate action for people and planet.