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International Court of Justice

Peace Palace
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The Netherlands

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LEX/PA/ZMG

Written comments submitted to the International Court of Justice by the ITUC and the ITF

The International Trade Union Confederation (ITUC) and the International Transport Workers' Federation (ITF) hereby submit the written comments in the matter of the request for an Advisory Opinion on the obligations of States with respect to climate change submitted by the UN General Assembly (Resolution A/RES/77/276). We sincerely hope our comments will be helpful in the Court's deliberations.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Luc Triangle".

Luc Triangle
General Secretary
International Trade Union Confederation

A handwritten signature in black ink, appearing to read "Stephen Cotton".

Stephen Cotton
General Secretary
International Transport Workers' Federation (ITF)

International Court of Justice

Request for an advisory opinion on the obligations of States with respect to climate change submitted by the UNGA (Resolution A/RES/77/276)

Submission to the International Court of Justice by the International Trade Union Confederation and by the International Transport Workers Federation

Submitting organizations

The International Trade Union Confederation (ITUC) represents 191 million workers in 167 countries and territories and has 337 national affiliates. The ITUC's primary mission is the promotion and defense of workers' rights and interests through international cooperation between trade unions, global campaigning, and advocacy within the major global institutions. Its main areas of activity include the following: human and labour rights; economic and social policy; equality and non-discrimination; and international solidarity. The ITUC enjoys General Consultation Status with the UN ECOSOC.

The International Transport Workers' Federation (ITF) is a democratic, affiliate-led global union federation connecting 737 affiliated trade unions from 151 countries that may otherwise be isolated. The ITF is the voice for 18 million transport workers across the world, fighting to improve working lives and help their members to secure rights, equality and justice. ITF headquarters are located in London with offices in Amman, Brussels, Abidjan, Nairobi, New Delhi, Ouagadougou, Rio de Janeiro, Panama City, Montréal, Singapore, Sydney and Tokyo.

Trade union movement, represented at the global level by the ITUC and the Global Union Federations (GUFs), including the ITF, is included among 9 Major Groups established in the Agenda 21 and re-confirmed in the outcomes of the Rio+20 summit. In the UNFCCC process trade unions are accredited observers and have a status of an NGO Constituency (TUNGO group). The ITUC coordinates trade unions' engagement with the UNFCCC process by providing political secretariat and serving as constituency focal points (CFP) for the TUNGO group. The ITUC also coordinates trade unions' engagement with and participation in the UN Environmental Assembly.

Background

During the 77th Session (29 March 2023) the United Nations General Assembly (UNGA) adopted by consensus Resolution A/RES/77/276 which concerned the request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change. By adopting this resolution, the UNGA decided, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice (Court, ICJ), pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the questions indicated below. The questions contained in Resolution A/RES/77/276 are the following:

“Having particular regard to the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Framework Convention on Climate Change, the Paris Agreement, the United Nations Convention on the Law of the Sea, the duty of due diligence, the rights recognized in the Universal Declaration of Human Rights, the principle of prevention of significant harm to the environment and the duty to protect and preserve the marine environment,

- (a) What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations;
- (b) What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:
 - (i) States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?
 - (ii) Peoples and individuals of the present and future generations affected by the adverse effects of climate change?”

I. Introduction

This submission aims at outlining how the concepts of just transition and decent work developed in international labour law can factor into the assessment of State obligations in respect of climate change under various sources of law.

Chapter II describes adverse impacts of climate change on the world of work and reviews the adverse impacts on the enjoyment of fundamental labour and human rights.

Chapter III analyses several key principles and concepts that are relevant both to international environmental and labour law. Each of these principles and concepts features in the UNFCCC as well as in the Paris Agreement. They are also intertwined in key components of the ILO mandate - such as the pursuit of balance between economic and social objectives and promotion of the Decent Work Agenda – and therefore interlinked with the international labour standards. These principles and concepts include sustainable development, principle of integration, principle of (inter- and intra-generational) equity, principle of common but differentiated responsibilities and the concept of minimizing the adverse impacts of response measures.

Chapter IV This chapter reviews just transition as a concept in international labour law. Section 1 presents the ILO and its standard-setting role, including the legal character of ILO Conventions, Recommendations and the ILO's Decent Work Agenda. Section 2 analyses the relationship between the ILO's mandate and the objective of sustainable development. Section 3 presents the ILO's concept of "just transition", the ILO Just Transition Guidelines and their links to the international labour standards.

Chapter V outlines the meaning of just transition as a concept in international climate law. Section 1 describes the emergence of just transition and its inclusion in instruments adopted by the UNFCCC Conference of the Parties (COP) prior to the adoption of the Paris Agreement. Section 2 depicts just transition in the Paris Agreement. Sections 3-5 scrutinize how the concept has been used by the State Parties in subsequent agreements and practice – including in the COP decisions following the Paris Agreement, in the State Parties' NDCs which play central role in the implementation of the Paris Agreement and in the national climate change laws.

Chapter VI analyses how the concepts of just transition and decent work can factor into the assessment of State obligations related to: climate change adaptation and mitigation, government procedures (including those related to access to information, public participation, and access to justice), social protection, protection of labour rights defenders, and international cooperation and climate finance.

II. Adverse Impacts of Climate Change on the World of Work

This section aims at outlining the adverse impacts of climate change and the mitigation response on the world of work. Sections 1 and 2 focus on the adverse socio-economic impacts on workers and various economic sectors. Section 3 reviews the adverse impacts on the enjoyment of fundamental labour and human rights.

1. Adverse socio-economic impacts of climate change

The adverse socio-economic impacts of climate change on the world of work are profound and growing. Approximately half of the world's gross domestic product (GDP) is dependent to a greater or lesser extent on nature and the sustainable management of ecosystem services.¹ The economic sectors most affected by climate change include agriculture, fisheries, forestry, energy, transport, tourism, manufacturing, and building and construction.² Together, these sectors employ more than half of the global workforce. Agriculture alone provides jobs to 1.3 billion people – close to 40% of global employment – most of them working poor.³

In many instances, jobs already characterized by informality, precarity and lack of protection are further undermined by climate impacts. Risks tend to be higher for indigenous and tribal peoples, residents in rural and coastal areas, women and youth.⁴ In general, marginalized and vulnerable groups of workers who have less resilience to climate impacts are being disproportionately affected. For example, workers living in poverty, including women and indigenous peoples, are often dependent on natural resources for their livelihoods and food security, and by implication are those most vulnerable to climate and environmental change.⁵ It is widely acknowledged that the ongoing climate crisis is expected to increase social inequality.⁶

Social risks include unemployment or underemployment, as workers may partially or entirely lose their income, especially if their livelihoods depend on natural resources or infrastructure affected by climate change. Extreme events may lead to the loss of life, including those of households' breadwinners, and the loss of people's livelihoods or assets. ILO research shows that between 2000 and 2015, an estimated 23 million working-life years were lost annually as a result of different environment-related disasters caused or exacerbated by human activity.⁷

Air, water and soil pollution and other forms of environmental degradation negatively affect workers' health, income and food security. The risk of work injuries as well as other physical impacts on health and well-being may increase, including premature death or injuries due to extreme events but also due to slow-onset changes. Disabilities may be caused or exacerbated by climate change.

¹ ILO, World Employment and Social Outlook 2018: Greening with Jobs, 2018, 2; available at: <https://www.ilo.org/publications/world-employment-and-social-outlook-2018-greening-jobs>

² ILO (2017) Addressing the impact of climate change on labour, Governing Body document, GB.329/POL/3, para 4, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543701.pdf

³ Ibidem.

⁴ Ibidem.

⁵ ILO, World Employment and Social Outlook 2018: Greening with Jobs, 2018, 2.

⁶ UNDP, Human Development Report 2020—The Next Frontier: Human Development and the Anthropocene (2020) 56ff.

⁷ ILO, Greening with Jobs, 2018, 23.

Health impacts both in terms of mortality and morbidity also include increased respiratory and cardiovascular disease, mental health issues, poor reproductive and maternal health and food-, water-, vector-borne and other infectious diseases due to higher temperatures.⁸

The disruption of food systems may further affect food security and nutrition, and climate change impacts may lead to forced displacement and migration from affected areas within or across countries – highlighting how climate change can both cause and add to the risks people already face over the course of their lives and throughout transitions. In 2022, for example, disasters triggered a record 32,6 mln internal displacements of which 98% were caused by weather-related hazards such as floods, storms, wildfires and droughts.⁹ Nearly 60% of refugees and internally displaced people now live in countries that are among the most vulnerable to climate change.¹⁰ Over the coming decades, climate change is expected to increase the incidence of acute disasters, livelihood loss and social disorder, all of which will increase displacement and migration.¹¹

Illustrative case:

Analysis by Cornell University's Global Labor Institute and Schroders¹² finds extreme heat and flooding are threatening key apparel production hubs. Four countries vital for fashion production risk losing \$65 billion in export earnings and 1 million potential jobs by 2030. Karachi, Colombo, Managua, Mauritius, and Dhaka identified as most climate-vulnerable production centers. Investors say adaptation measures are not factored into risk plans because the industry is focused on mitigation. Analysis calls for climate adaptation finance that redistributes costs and risks away from apparel workers.

2. Adverse socio-economic impacts of climate change mitigation and adaptation responses

Transition to carbon-resilient economy, including by reaching the temperature goals of the Paris Agreement, requires fundamental shifts in all sectors of the society.¹³ At the same time, measures that are aimed to bring about climate neutrality do not affect everyone equally: different regions and social groups have varying capacities to adapt and enjoy the gains of the net zero transition.¹⁴

According to the ILO, the impacts of transition to carbon-resilient economy on employment can be considered from four perspectives: (i) new jobs will be created; (ii) some jobs might be substituted by others; (iii) certain jobs will be lost or eliminated without being substituted; and (iv) most jobs will

⁸ ILO (2023) Social protection for a just transition, Policy brief, available at: https://www.ilo.org/global/topics/green-jobs/publications/just-transition-pb/WCMS_867426/lang--en/index.htm

⁹ IDMC (2023) Global Report on Internal Displacement, available at: <https://www.internal-displacement.org/global-report/grid2023>

¹⁰ <https://www.unhcr.org/news/stories/climate-change-and-displacement-myths-and-facts>

¹¹ ILO (2017) Addressing the impact of climate change on labour, Governing Body document, GB.329/POL/3 available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543701.pdf

¹² Cornell and Shroders (2023) Higher Ground? Fashion's Climate Breakdown Report, available at: <https://www.ilr.cornell.edu/global-labor-institute/higher-ground-fashions-climate-breakdown>

¹³ IPCC, 'Summary for policymakers' in Climate Change 2022: Mitigation of Climate Change (2022) 24–35.

¹⁴ IPCC (n 2) 42–43 and UNDP, Human Development Report 2021/2022—Uncertain Times, Unsettled Lives: Shaping our Future in a Transforming World (2022) 39–44.

be transformed.¹⁵ Some industries will decline in the transition to sustainable production and consumption, including job losses in the oil and gas industry. Similar shifts are expected within and across a range of extractives, manufacturing and services sectors as a result of countries' commitments to tackle climate and environmental change. New jobs should be created in the broader renewable energy sector and in other sectors, related to green and sustainable production and consumption eg. circular economy.

Both job creation and job losses are unevenly distributed across the world and are often concentrated in specific regions and communities. New employment opportunities are not always created for the same workers and in the same locations where jobs are lost, and not at the same time, creating both geographic and temporal disconnections.¹⁶ Net job gains may also mask the significant adverse effects in some sectors and areas and on particular population groups at different points in time.¹⁷

Illustrative case:

According to the report published by the Solidarity Center in 2020, in Bangladesh, in communities like Khulna, increased salinity, siltation, flooding, and worsening cyclones have devastated the agriculture sector.¹⁸ In 2012, as much as 80% of Khulna was affected by high levels of salinity. The loss of agricultural livelihoods due to environment-related factors has pushed workers into other precarious sectors or pushed them to migrate internally or across borders. According to the report "In many cases, the new economic activities chosen by local and migrant farmers were not profitable enough for them. Most respondents explained that they live hand to mouth. None of the respondents were part of any well-designed adaptation strategy undertaken by the government or another agency. The study also found that workers are poorly able to cope with the changes in their livelihood."¹⁹

The major area of concern is the quality of new jobs created as part of transition to low carbon, socially and economically sustainable economy. The up-to-now, environmentally unsustainable, fossil-fuel based economy has been rigged with workers' rights violations. Unless remedial action is taken, it is possible that the transition will perpetuate decent work deficits instead of addressing them, and will further increase inequalities and instability.

Illustrative case:

Between 2010 and 2021, the Business and Human Rights Center received more than 200 allegations of human rights violations linked to the renewable energy sector. They warned that solar, wind, and hydroelectric companies were taking over land, restricting access to water, violating Indigenous people's rights to prior and informed consent, and denying decent wages for workers.²⁰

¹⁵ ILO (2023) Achieving a just transition towards environmentally sustainable economies and societies for all, ILC, Report VI, para 21, available at: https://www.ilo.org/ilc/ILCSessions/111/reports/reports-to-the-conference/WCMS_876568/lang--ja/index.htm

¹⁶ ILO (2023) ILC, Report VI, para 22.

¹⁷ ILO (2023) Social protection for a just transition, Policy brief, available at: https://www.ilo.org/global/topics/green-jobs/publications/just-transition-pb/WCMS_867426/lang--en/index.htm

¹⁸ Rashid, Syeda Rozana, *The Intersection of Climate Change, Migration and Changing Economy* <https://www.solidaritycenter.org/wp-content/uploads/2020/07/Bangladesh.Report.The-Intersection-of-Climate-Change-Migration-and-Changing-Economy.-June-2020.pdf>

¹⁹ Ibidem.

²⁰ <https://www.business-humanrights.org/en/from-us/briefings/renewable-energy-human-rights-benchmark-2/>

The world of work is currently seeing rapid decline in worker protection and the growth of precarious and non-standard forms of work. According to the ILO, a significant 47% of workers worldwide are currently not in wage employment, which is most closely bound with labour protection. As many as 33% of workers are own-account workers, employed under civil contracts, which in many countries are not covered by regulation related to minimum wage, working time, OSH and maternity protection, and are excluded by law from the right to form and join trade unions and to bargain collectively.²¹ Informality, in addition to precarious work in the formal economy, continues to pose a major challenge to labour protection and access to fundamental labour rights, taking into account that 62% of the global workforce is estimated to work in the informal economy and the data for 2016-2019 show no trend towards formalisation of employees, while they do show a trend towards informalisation for non-employees.²² Of note, the impact of the Covid-19 pandemic on the informal economy has led to further informal job growth. Informal workers were left particularly vulnerable to shocks during the pandemic.

Over the past years, there has been an overall rise in non-standard forms of employment globally, including increases in zero-hour contracts, temporary agency work, dependent self-employment and disguised employment relationships. These trends have proliferated in the wake of digitalisation and technological change (especially in the case of platform work), regulatory arbitrage, as well as, in some cases, employment policy changes that have made it easier and more attractive for firms to hire workers on precarious contracts. Overall, the rise in precarious forms of work is also leading to more polarised labour markets, increasingly contributing to widening wage inequality.²³

Illustrative case:

Cobalt is used for the large batteries that store the wind energy. Research conducted by RAID and CAJJ in the cobalt mining sector in the Democratic Republic of Congo (DRC) exposed a widespread use of the subcontracting model reportedly to reduce costs, limit liability for workers' safety and prevent workers from joining unions.²⁴ Rather than employing workers directly, the mining companies turn to subcontracting firms to provide large parts of their workforce, from miners to cleaners, to drivers, to security personnel and others. According to data, more than half of the workforce was being supplied by subcontractors and this practice was used for the core business operations, and on a long-term basis.²⁵

New forms of work have been on the rise. There has been a fivefold increase in the number of digital labour platforms in the past decade.²⁶ Workers on digital labour platforms often struggle to earn a decent income, creating a danger of working poverty. In many cases, the employment relationship is not recognized and is hidden under other contractual forms to avoid the application

²¹ ILO (20203) Leaving no one behind: Building inclusive labour protection in an evolving world of work, ILC, Report V (Rev.), available at: https://www.ilo.org/ilc/ILCSessions/111/reports/reports-to-the-conference/WCMS_875127/lang--en/index.htm

²² Ibidem.

²³ Ibidem.

²⁴ RAID and CAJJ (2021) The Road to Ruin? Electric vehicles and workers' rights abuses at DR Congo's industrial cobalt mines, available at: https://raid-uk.org/wp-content/uploads/2023/03/report_road_to_ruin_evs_cobalt_workers_nov_2021.pdf

²⁵ Ibidem.

²⁶ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/--publ/documents/publication/wcms_771749.pdf

of labor standards and the corresponding tax burdens. These workers, in many jurisdictions predominantly young and migrant workers, classified as contractors lack access to labour protection and social protection, which is particularly concerning during crises and responses to crises. They are frequently unable to engage in the collective bargaining that would allow them to have these issues addressed. Furthermore, studies have demonstrated how the pernicious practice of employment status misclassification also has an adverse outcome on emissions.²⁷

Accordingly, climate change is already having pervasive and harmful impact on ecosystems as well as the world of work across the planet. The current decent work deficits are in many instances undermined by harmful climate impacts and further perpetuated by insufficient or inadequate mitigation and adaptation response.

These harmful impacts have clear implications for the enjoyment, protection, and fulfillment of a range of (protected) labour and human rights. The next section provides with a list of fundamental labour and human rights that are affected by climate change, accompanied by descriptions of relevant climate response impacts.

3. Protected rights impaired by the climate emergency

Since 2008, the UN Human Rights Council has adopted several resolutions recognizing that the climate emergency threatens the enjoyment of human rights, particularly for the world's most vulnerable populations. Together with other UN Special Rapporteurs, the Special Rapporteur on the Environment and the Special Rapporteur on Climate Change have detailed the specific impacts of the climate emergency on a range of protected rights. Human rights treaty bodies consistently have affirmed that States owe obligations to prevent and remedy foreseeable threats of serious harm resulting from the climate emergency.²⁸

Accordingly, also international environmental and climate change laws recognize that the climate emergency impairs human rights. The extensive human rights impacts of environmental degradation have been recognized since the Stockholm Declaration of 1972.²⁹ The Preamble of the Paris Agreement provides in preambular recital 11 that State parties: *“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, persons with disabilities, and people in vulnerable situations”*.

This part discusses the interrelationship between the fundamental labour and human rights - to work, to fair and satisfactory working conditions, to safe and healthy environment, to form and join trade unions, to collective bargaining and the right to strike, to freedom from child labour and to non-discrimination in employment and occupation - and the climate emergency.

²⁷ <https://laborcenter.berkeley.edu/release-truck-driver-misclassification/>

²⁸ See UN Human Rights Committee, General Comment No. 36 (right to life), U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 62 [Human Rights Committee General Comment 36]; *Billy v. Australia*, para. 8.12 (observing that Australia's failure to implement adaptation measures adequate to counter rising sea levels amounted to a failure to protect against “foreseeable and serious violations of private and family life and the home”); para. 8.14 (finding that complainants' right to culture was violated where impacts “could have reasonably been foreseen by the State party”); *Sacchi v. Argentina*, CRC/C/88/D/104/2019 (2022) [*Sacchi v. Argentina*], para. 10.6 (“[f]ailure to take measures to prevent foreseeable human rights harm caused by climate change or to regulate activities contributing to such harms could constitute a violation of the States' human rights obligations”).

²⁹ Stockholm Declaration, U.N. Doc. A/CONF.48/14/Rev.1, June 16, 1972; UNGA Res. 2994/XXVII, 2995/XXVII and 2996 XXII (Dec. 15 1972) [Stockholm Declaration], Principle 1: “Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.”

A. The climate emergency impairs the right to work

One of the pillars of the principle of decent work for all³⁰ is promotion of employment, which is linked to obligation to declare and pursue, as a major goal, an active policy designed “to promote full, productive and freely chosen employment” contained in the ILO Employment Policy Convention No. 122.³¹ Convention No. 122 is supplemented by the ILO Employment Promotion and Protection Against Unemployment Convention No. 168 which obligates states to “ensure that its system of protection against unemployment (...) contribute to the promotion of full, productive and freely chosen employment”.³²

The ILO’s concept of “decent work” as well as the contents of the ILO Conventions Nos. 122 and 168 are reflected in the jurisprudence of the UN Committee on Economic, Social and Cultural Rights (CESCR) concerning the right to work contained in Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).³³ The CESCR has underlined that the right “of every individual to freely chosen or accepted work without distinction of any kind” concerns the right to decent work, that is work that respects the fundamental rights of the human person as well as the rights of workers in terms of conditions of work safety and remuneration and income allowing workers to support themselves and their families, as well as the right to social protection.³⁴ The CESCR has also recognized that “right to work contributes at the same time to the survival of the individual and to that of his/her family, and insofar as work is freely chosen or accepted, to his/her development and recognition within the community”,³⁵ reflecting the wording of the preamble to the ILO Convention 168.³⁶ Further, the CESCR has also explained the link between Article 6 ICESCR and ILO Convention No. 122 by saying: “The right to work, as guaranteed in the ICESCR, affirms the obligation of States parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly. This definition underlines the fact that respect for the individual and his dignity is expressed through the freedom of the individual regarding the choice to work, while emphasizing the importance of work for personal development as well as for social and economic inclusion. International Labour Organization Convention No. 122 concerning Employment Policy (1964) speaks of “full, productive and freely chosen employment.”

In the context of the transition to a carbon-resilient economy, especially where States fail to invest in appropriate mitigation and adaptation action, when workers lose their jobs without being provided new jobs that are consistent with the decent work concept, their right to work may be affected.

Illustrative cases:

³⁰ The principle of decent work is further described in Chapter IV.

³¹ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312267

³² https://www.ilo.org/dyn/normlex/en/f?p=1000:12100::NO:12100:P12100_INSTRUMENT_ID:312313

³³ International Covenant on Economic, Social and Cultural Rights, Part III, art. 7, G.A. Res. 2200A (XXI), 21 U.N.GAOR Supp., U.N. Doc. A/6316 (Dec. 16, 1966) (entered into force Jan. 3, 1976).

³⁴ CESCR (2005) UN Committee on Economic, Social and Cultural Rights General Comment No.18. The right to work. November 24, 2005, para. 7.

³⁵ CESCR General Comment No. 18, para 1.

³⁶ See the preamble to ILO Convention No. 168, 1988: “... the importance of work and productive employment in any society not only because of the resources which they create for the community, but also because of the income which they bring to workers, the social role which they confer and the feeling of self-esteem which workers derive from them.”

According to information from Business Human Rights Centre, allegations of various human rights violations were reported regarding the wind farm developments in Mexico. Not only have companies reportedly illegally constructed on indigenous lands, they failed to conduct meaningful consultation or they had manipulated consent. Human rights defenders and community leaders who defended their lands from such developments were met with violence, intimidation and threats.³⁷ Profits from the wind farms were not equitably distributed.³⁸ Peace Brigades International reported that although employment opportunities may have been created for the local population during construction of the wind farms, the types of contracts offered are often on a weekly basis, inhibiting workers from registering with the Mexican social security system and accessing its services. Upon completion, construction workers become unemployed and maintenance work is carried out by highly skilled engineers.³⁹

When devastating floods left a third of Pakistan under water in 2022, the rail sector was particularly exposed, due to years of underinvestment against a backdrop of deregulation and privatisation. The Post-Disaster Needs Assessment highlighted pre-flood issues including dilapidated track and signalling and a large maintenance backlog. Pakistan Railways directly employs around 70,000 people and many more depend on the rail system for informal work, for example, as porters or stall workers. In the aftermath of the flood, employee salaries were delayed for months, leaving workers unable to meet the household costs and forced to take out loans to live. Pensions for retired rail workers were suspended, leaving retirees without an income. And other workers dependent on the rail system were unable to work when services were suspended, leaving them without a livelihood.⁴⁰

B. The climate emergency impairs the right to just and favourable conditions of work

The right to just and favourable conditions of work is established in a broad list of international human rights instruments of the universal system, including in Article 23(1) UDHR and Article 7(b) ICESCR, as well as a Article 5(e)(i) ICERD, Article 11(1)(f) CEDAW, Article 32(2)(b) CRC, Article 25(1)(a) ICRMW and Article 27(1)(b) ICRPD.

Under Article 7 ICESCR all Parties to the Covenant recognize the right to “just and favourable conditions of work,” which include: fair wages; equal remuneration between sexes; a decent living; safe and healthy working conditions; equal opportunity for promotion; and rest, reasonable working hours, and holidays with pay, including for public holidays.

This right is recognized in numerous ILO Conventions and Recommendations.⁴¹

³⁷ IHRB (2020) What Are the Rights Implications of Wind Energy? Available at: <https://www.ihrb.org/explainers/what-are-the-rights-implications-of-wind-energy>

³⁸ Ibidem.

³⁹ PBI, Wind Farms and Concerns about Human Rights Violations in Oaxaca, available at: https://pbi-mexico.org/fileadmin/user_files/projects/mexico/images/News/1403BriefingWindFarmsPBI.pdf

⁴⁰ [TC4submission_International_Transport_Workers_Federation_25September2023.pdf \(unfccc.int\)](#)

⁴¹ Hours of Work (Industry) Convention, 1919 (No.1); Weekly Rest (Industry) Convention 1921 (No.14); Minimum Wage-Fixing Machinery Convention 1928 (No.26); Hours of Work (Commerce and Offices) Convention 1930 (No.30); Forty-Hour Week Convention 1935 (No.47); Protection of Wages Convention 1949 (No.95); Minimum Wage Fixing (Agriculture) Convention 1951 (No.99); Equal Remuneration Convention 1951 (No.100); Weekly Rest (Commerce and Offices) Convention 1957 (No.106); Discrimination (Employment and Occupation) Convention 1958 (No.111); Minimum Wage Fixing Convention 1970 (No.131); Holidays with Pay Convention (Revised) 1970 (No.132); Minimum Age Convention 1973 (No.138); Hours of Work and Rest Periods (Road Transport) Convention 1979

As explained by CESCR in General Comment No. 23,⁴² States need to “adopt laws, policies and regulations on non-discrimination, a non-derogable minimum wage, occupational safety and health, compulsory insurance coverage, minimum standards for rest, leisure, limitations on working hours, paid annual and other leaves, as well as public holidays”.

In the context of climate change measures the right to fair and satisfactory working conditions may be affected in case of lack of adequate labour protection, including in the sectors that are supporting the transition from the fossil-fuel based economy to the low emission, climate-resilient economy.

Illustrative case:

In 2020 the Australian Confederation of Trade Unions (ACTU) published a report outlining the opportunities ahead in creating decent, well-paid renewable energy jobs, and the experiences of workers, both good and bad, in the industry to date. While the industry has become a jobs generator and there are positive examples of well-paid, secure and highly-skilled renewables jobs, the report has also found evidence of poor employment practices. Some renewable energy sites, including solar farms have relied heavily on the use of unqualified and unlicensed workers. Workers were underpaid and not provided with and additional training needed to work in the high-voltage setting of a solar farm. The Australian unions are supporting the government’s backing of the renewable energy projects but they are calling for enterprise agreements as well as transparency about the numbers of jobs in the industry and employment conditions.⁴³

C. The climate emergency impairs the rights to form and join trade unions, the right to collective bargaining and the right to strike

Freedom of association is recognized as a civil and political right and an economic, cultural, and social right, provided for, at the international level, in Article 20(1) UDHR, Article 22 ICCPR and Article 8 ICESCR as well as in ILO Conventions Nos. 87, 98 and 135.⁴⁴ Freedom of association is closely related with other civil and political rights. As repeatedly stated by the ILO Committee on Freedom of Association (CFA), “Freedom of association can only be exercised in conditions in which fundamental rights, and in particular those relating to human life and personal safety, are fully respected and guaranteed.”⁴⁵

Freedom of association, the right to collective bargaining and the right to strike can be adversely affected by the inadequate climate change response that involves creating jobs deprived of workers’ rights. Workers may be moved to precarious jobs where they are prevented, in law or in

(No.153); Occupational Safety and Health Convention 1981 (No.155); Protocol of 2002 to the Occupational Safety and Health Convention 1981 (No.155); Workers with Family Responsibilities Convention 1981 (No. 156); Night Work Convention 1990 (No.171); Part-Time Work Convention 1994 (No.175); Maternity Protection Convention 2000 (No.183); The Convention concerning the promotional Framework for Occupational Safety and Health 2009 (No.187); Domestic Workers Convention 2011 (No.189).

⁴² CESCR (2016) General Comment No. 23 on the Right to just and favorable conditions of work (Article 7 of the International Covenant on Economic, Social and Cultural Rights), available at: https://www.escr-net.org/resources/general-comment-no-23-2016-right-just-and-favorable-conditions-work#_ftn2

⁴³ ACTU (2020) Sharing the benefits with workers: A decent jobs agenda for the renewable energy industry, available at: <https://www.actu.org.au/policies-publications-submissions/sharing-the-benefits-with-workers-a-decent-jobs-agenda-for-the-renewable-energy-industry/>

⁴⁴ ILO Freedom of Association and Protection of the Right to Organise Convention No. 87, ILO Right to Organise and Collective Bargaining Convention No. 98, ILO Workers’ Representatives Convention No. 135.

⁴⁵ 2018 ILO Compilation of decision of the ILO Committee on Freedom of Association, para 82, available at: <https://www.ilo.org/publications/freedom-association-compilation-decisions-committee-freedom-association-pdf>

practice, from joining trade unions or being represented by them. For example, the ILO has recognized that the use of fixed-term contracts or other insecure forms of employment has a significantly negative impact on the exercise of the right to freedom of association and the right to non-discrimination in employment and occupation. Accordingly - if transition of the workforce is not accompanied by the decent work and quality jobs' component - workers may end impaired in their access to trade union rights. The ILO Committee on Freedom of Association held that "the renewal of fixed-term contracts for several years may affect the exercise of trade union rights."⁴⁶

The ILO calls for social dialogue to be involved with environment-related subjects. A barrier to realization of the right to bargain collectively in the context of climate change response is insufficient recognition, in law and in practice, of environmental protection matters (including climate change mitigation and adaptation measures) as legitimate subjects of trade union collective bargaining and collective action.

Illustrative cases:

The ILO supervisory bodies have pointed to allegations of violations of collective bargaining after a natural disaster, for example, in Haiti after the 2010 earthquake.⁴⁷

In 2021 the Chilean Supreme Court sided with the trade union of Maritima & Commercial Somarco Limited Ministry of Energy against the Ministry of Energy of Chile and upheld that government's energy decarbonization plan failed to include the participation of workers and violated their human rights under a just transition. (Case No. 25. 530-2021). The decision specified that in this context, the agreements adopted by the State of Chile to achieve carbon neutrality require the performance of a just transition strategy both for the workers harmed by the loss of their direct and indirect source of employment and for the communities affected by the loss of services linked to the development of the declining thermoelectric activity, allowing the transition to an environmentally sustainable economy. The ruling ordered the government authorities to implement a plan for the reinsertion into the labor market of workers affected by the decarbonization process, consulting them in that process, and adopting the control measures to ensure compliance.⁴⁸

D. The climate emergency impairs the right to freedom from child labour

Children have been identified as one of the population groups at greatest risk from the systemic shocks caused by climate change. For example, children are particularly vulnerable to health problems exacerbated by climate change.⁴⁹

⁴⁶ ILO Committee on Freedom of Association. Definitive Report – Case No. 2884, Report No 368, June 2013 (Definitive Report) in a case regarding the Government of Chile.

⁴⁷ Observation (CEACR) – adopted 2011, published 101st ilc session (2012), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2698936,102671,Haiti,2011.

⁴⁸ [20210809_318-2021-25.530-2021_ruling-1.pdf \(climatecasechart.com\)](#)

⁴⁹ Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights, Analytical study on the relationship between climate change and the full and effective enjoyment of the rights of the child, U.N. Doc. A/HRC/35/13 (June 6-23, 2017).

In *Sacchi v. Argentina*, the UN Committee on the Rights of the Child (CRC) observed that States may owe obligations under the UN Convention on the Rights of the Child where they fail to protect children's rights from threats that are both serious and foreseeable.⁵⁰

However, the climate emergency poses challenges not only to children's right to health.⁵¹ According to the ILO, climate change is multiplying the incidence of child labour, particularly in agriculture where 70 % of all child labour is found.⁵²

Eradication of child labour and the promotion of the rights of children is undoubtedly engaged in the climate emergency. Child labour impacts on intra-generational justice in terms of distribution of social goods within a given society and has inter-generational effects on the children of those denied an education.

Child labour refers to children that work in violation of the standards set out in the ILO Minimum Age Convention No. 138 and ILO Worst Forms of Child Labour Convention No. 182. Child labour includes all children under the age of 12 who work in any economic activity, as well as those aged 12 to 14 who work in lighter work, and children who are subjected to the worst forms of child labour. Worst forms of child labour include slavery, compulsory recruitment, prostitution, human trafficking, and the obligation to carry out activities.

Illustrative case:

*The ILO supervisory bodies have also pointed to the effect of rapid onset disasters such as earthquakes and tsunamis on child labour, eg. in Asian countries after the 2004 tsunami.*⁵³

E. The climate emergency impairs the right to safe and healthy working environment

A safe and healthy working environment is a fundamental human right and a core aspect of the right to just and favourable conditions (Article 7(b) ICESCR), closely related to the right to health (Articles 12(b) and (c) ICESCR). In 2022, the right to a safe and healthy working environment has been recognized by the International Labour Conference as a fundamental principle and right at work.⁵⁴ ILO OSH Conventions - the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) – have been accordingly designated as ILO fundamental Conventions. Based on these ILO standards, a worker has a right to remove him/herself from a work situation which (s)he has reasonable justification to believe presents an imminent and serious danger to his/her life or health (Articles 13 and 19(f) ILO Convention No. 155). The right to safe and healthy work encompasses many other

⁵⁰ *Sacchi v. Argentina*, CRC/C/88/D/104/2019 (2022).

⁵¹ Protected under Article 12 ICESCR and Article 24 of the UN Convention on the Rights of the Child (CRC).

⁵² ILO (2023) Issue paper on child labour and climate change, available at: https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_905673/lang--en/index.htm; ILO, 'World Report on Child Labour'. r: Economic Vulnerability, Social Protection and the Fight against Child Labour'. Report, 29 April 2013. http://www.ilo.org/ipecc/informationresources/WCMS_178184/lang--en/index.htm

⁵³ Sri Lanka – Observation (CEACR) – adopted 2009, published 99th ilc session (2010) Worst Forms of Child Labour Convention, 1999 (No. 182), available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_I D,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:2310385,103172,Sri%20Lanka,2009.

⁵⁴ Resolution on the inclusion of a safe and healthy working environment in the ILO's framework of fundamental principles and rights at work, ILC.110/Resolution I, adopted at the 110th ILC Session in 2022, available at: https://www.ilo.org/ilc/ILCSessions/110/reports/texts-adopted/WCMS_848632/lang--en/index.htm

interrelated and interdependent human rights, including the rights to life, bodily (physical) integrity and security of the person.

Despite clear human rights obligations relating to the protection of their health, workers around the world find themselves in the midst of a crisis: according to the ILO, almost 3 mln workers globally die from unsafe or unhealthy conditions of work each year.⁵⁵ The situation is only worsened due to climate and environmental changes. According to the ILO, key impacts of climate change on worker safety and health and the use of chemicals in the world of work include heat stress, air pollution, ozone depletion, increases in pests and vector-borne diseases, soil infertility, and a higher risk of major industrial accidents.⁵⁶ Numerous health conditions in workers have been linked to climate change, including cancers, cardiovascular disease and respiratory illnesses.⁵⁷ The risks and hazards associated with environmental degradation and climate change tend to affect workers in vulnerable situations most strongly. Those in low- and middle-income countries (LMIC) and outdoor workers, in sectors such as construction and agriculture, will be particularly impacted.⁵⁸

4. Conclusions

Climate change is already having pervasive and harmful impact on ecosystems as well as on the world of work across the planet. The current decent work deficits are in many instances undermined by harmful climate impacts and further perpetuated by insufficient or inadequate mitigation and adaptation response.

The climate emergency is preventing the full enjoyment of a range of human and labour rights for certain individual workers, groups or categories of workers, or workers coming from particular communities, populations, and regions, including, among others, the rights to: work, to fair and satisfactory working conditions, to safe and healthy environment, to form and join trade unions, to collective bargaining and the right to strike, to freedom from child labour and to non-discrimination.

States should respond to such harms, as part of their climate change response, which should include fostering inclusive low carbon economies and realizing a just transition, underpinned by respect, protection and fulfillment of human and labour rights.

Just transition has grown into an increasingly recognized concept in climate law and policy. During the recent decade, it has been incorporated in both international and national climate law frameworks, including the reference in the Preamble of the Paris Agreement in 2015. The meaning and contents of the concept of just transition towards environmentally sustainable economies and societies have been developed in detail in international labour law. This concept is also interlinked with several principles and concepts developed in international law, that are relevant both to international environmental law and international labour law.

The following chapter reviews several of these principles and concepts, including sustainable development, principle of integration, principle of (inter- and intra-generational) equity, principle of common but differentiated responsibilities and the concept of minimizing the adverse impacts of response measures.

⁵⁵ <https://www.ilo.org/global/topics/safety-and-health-at-work/lang--en/index.htm>

⁵⁶ ILO (2023) Chemicals and climate change in the world of work: Impacts for occupational safety and health, research report, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/publication/wcms_887111.pdf

⁵⁷ Ibidem.

⁵⁸ Ibidem.

5. Just Transition and Principles of International and International Environmental Law

This chapter aims to outline several key principles and concepts that are relevant both to international environmental law and international labour law. Each of these principles and concepts features in the UNFCCC as well as the Paris Agreement. They are also intertwined in key components of the ILO mandate - the pursuit of balance between economic and social objectives and promotion of the Decent Work Agenda – and therefore interlinked with the international labour standards. These principles and concepts include sustainable development, principle of integration, principle of (inter- and intra-generational) equity, principle of common but differentiated responsibilities and the concept of minimizing the adverse impacts of response measures.

1. Sustainable Development

The concept of sustainable development was introduced in international law by the 1992 Rio Declaration on Environment and Development (Agenda 21),⁵⁹ and further developed in the 2002 the Johannesburg Declaration on Sustainable Development.⁶⁰ Sustainable development is the development that meets the needs of the present generations without compromising the ability of future generations to meet their own needs.⁶¹ The Millennium Development Goals (MDGs) (2000-2015)⁶² and the current Sustainable Development Goals (2030 Agenda for Sustainable Development)⁶³ are programmatic follow-ups to the 1992 and 2002 Conferences. Although non-binding, the principles of the Rio Declaration are formulated in strong legal terms.⁶⁴

“Social pillar” of sustainable development is defined in the 1997 UNGA Resolution adopting the Program for Implementation of Agenda 21 (Rio+5) by reference to “[improved] standards of living of people through the eradication of poverty, hunger, disease and illiteracy and the provision of adequate shelter and secure employment for all,” as well as democracy, respect for all human rights

⁵⁹ 1992 Rio Declaration on Environment and Development (Agenda 21) A/CONF.151/26, adopted during the UN Environment and Development Conference, together with the adoption of 2 Conventions - the UN Framework Convention on Climate Change and the UN Convention on Biodiversity. See: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf

⁶⁰ 2002 the Johannesburg Declaration on Sustainable Development, adopted during the World Summit for Sustainable Development in Johannesburg, available at: <http://www.un-documents.net/jburgdec.htm>. At the World Summit the Plan of Implementation of the World Summit on Sustainable Development was also agreed upon.

⁶¹ UN (1987) World Commission on Environment and Development, “Our Common Future” (*Brundtland Report*), (Montreal 1987). p. 51, available at: <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>

⁶² MDGs are derived from the 2000 UN Millennium Declaration, adopted at the Millennium World Summit in New York. The Declaration listed 8 development goals in the areas of poverty, primary education, gender equality, child mortality, maternal health, disease, environmental sustainability and development cooperation. <https://www.un.org/en/development/devagenda/millennium.shtml>

⁶³ SDGs are derived from the outcome document “Transforming Our World: The 2030 Agenda for Sustainable Development”, adopted at the UN Summit on Sustainable Development, 25-27.09.2015 New York, adopted by the UN GA in the Resolution A/RES/70/, available at: <https://documents.un.org/doc/undoc/gen/n15/291/89/pdf/n1529189.pdf?token=RGusBLpSEtFDBbwvZw&fe=true>. Agenda 2030 included a declaration, 17 sustainable development goals and 169 targets.

⁶⁴ See: Barral V (2012) Sustainable development in International Law: Nature and Operation of an Evolutive Legal Norm, in: European Journal of International Law Vol. 23 no. 2.

and fundamental freedoms, including the right to development, transparent and accountable governance in all sectors of society, as well as effective participation by civil society.”⁶⁵

2. Principle of integration

Sustainable development is defined by a combination of two principles: equity and integration. Principle of integration is contained in Principle 4 of 1992 Rio Declaration and in Paragraph 23 of the 1997 UNGA Resolution adopting the Program for Implementation of Agenda 21 (Rio+5). Principle of integration in the context of sustainable development means the requirement to integrate and reconcile three interdependent and complementary pillars: economic development, social development, and environmental protection.

As elaborated in the International Law Association’s (ILA) 2002 New Delhi Declaration of Principles of International Law Relating to Sustainable Development: *“the objective of sustainable development involves a comprehensive and integrated approach to economic, social and political processes, which aims at the sustainable use of natural resources of the Earth and the protection of the environment on which nature and human life as well as social and economic development depend and which seeks to realize the right of all human beings to an adequate living standard on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom, with due regard to the needs and interests of future generations.”*⁶⁶

Accordingly, both social as well as environmental considerations must be included in economic projects and neither pillar of sustainable development should be considered in isolation.

3. Principle of equity

The principle of equity requires to take into account considerations of justice and fairness in the establishment, operation or application of law. In the context of sustainable development, equity refers to fairness in the distribution of benefits and burdens of development within the current generation and among generations. As such, it has two inter-related dimensions – inter- and intra-generational equity. The principle of equity is central to the legal sustainable development framework and it features in the 1972 Declaration, 1992 Rio Declaration and 2002 Johannesburg Declaration.⁶⁷ The principle of equity is also central to the normative framework for climate change law. It is included as a principle in the UNFCCC and reiterated in the key articles of the Paris Agreement.⁶⁸

Inter-generational equity requires equity in distribution of outcomes of development between generations, and especially, preservation of the environment for future generations.⁶⁹ Inter-generational equity for its part informs the principles of the sustainable use of natural resources, of

⁶⁵ UNGA Resolution A/RES/S-19/2 Programme for the Further Implementation of Agenda 21, (Rio+5), para 23, available at: <https://documents.un.org/doc/undoc/gen/n97/774/73/pdf/n9777473.pdf?token=uoH9dj6IGW70yqCwkP&fe=true>

⁶⁶ ILA, New Delhi Declaration of Principles of International Law Relating to Sustainable Development, 2002, annex to resolution 3/2002, preamble para 14, available at https://www.ila-hq.org/en_GB/documents/conference-resolution-english-new-delhi-2002-3

⁶⁷ Declaration of the United Nations Conference on the Human Environment (1972), Principles 1 & 12; Rio Declaration (1992), Principles 6 and 3; Johannesburg Declaration on Sustainable Development (2002), para 24, available at: https://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POI_PD.htm

⁶⁸ UNFCCC Article 3(1) and Paris Agreement Articles 2(2), 4(1) and 14(1).

⁶⁹ Definition of sustainable development contained in the Brundtland Report, Principle 3 of 1992 Rio Declaration.

prevention and precaution, of environmental impact assessment, and of access to information and participation in the decision-making process. These are all reflected in the 1992 Rio Declaration,⁷⁰ but also find expression in various treaty regimes closely connected with sustainable development.⁷¹

Intra-generational equity requires equity in the distribution of the outcomes of development within one generation as much internally (within one national society) as internationally (between developed and developing states).

4. Principle of common but differentiated responsibilities

Important standards for the achievement of sustainable development inspired by intra-generational equity include the principle of common but differentiated responsibilities (CBDR), embodied in Principle 7 of 1992 Rio Declaration, according to which, in view of their particular contribution to the degradation of the environment, developed countries have a shared but heavier responsibility in working towards sustainable development. The principle of CBDR is also interlinked with other cross-cutting principles of international law such as solidarity and social justice. The principle of CBDR is also present in international climate law, where is included both in the UNFCCC - in the preambular recital 6, in Article 3(1) on principles and in Article 4(1) on commitments – as well as in the Paris Agreement – in preambular recital 3, in Article 2(2) on adaptation and in Articles 4 (3 and (19) on mitigation.

5. Minimizing the adverse impacts of response measures

Just transition is linked to the principle of minimizing the adverse socio-economic impacts of the response measures contained in the instruments of international climate law – the UNFCCC, the Kyoto Protocol and the Paris Agreement.⁷²

Adverse impacts of climate change are defined in Article 1.1. UNFCCC as “*changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.*”

Consequently, according to the principle of minimizing the adverse impacts of response measures, States should take into account the situation of States, particularly developing countries, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change.

6. Conclusions

Several key principles and concepts that are relevant both to international environmental and labour law and therefore should be taken into account when interpreting the legal implications of the inclusion of the concept of just transition in international climate law. These principles and concepts are interconnected with the key components of the ILO mandate - the pursuit of balance between economic and social objectives and promotion of the Decent Work Agenda.

The next chapter presents the ILO and its standard-setting role, the ILO’s concept of “just transition” and the relation of this concept with international labour standards and the principle of decent work.

⁷⁰ Principles 2, 10, 15, and 17 of the 1992 Rio Declaration.

⁷¹ E.g. 1992 Convention on Biological Diversity, the 1998 Aarhus Convention, and the 1991 Espoo Convention.

⁷² UNFCCC (Arts. 4(1)(f-h); (8) and(10)) and the Kyoto Protocol (Arts. 2(3) and 3(14)), as well as the Paris Agreement (Art. 4(15)).

6. Just Transition as a Concept in International Labour Law

Reference in international climate law to just transition should be considered in a broader legal context. This chapter reviews just transition as a concept in international labour law. Section 1 presents the ILO and its standard-setting role, including the legal character of ILO Conventions, Recommendations and the ILO's Decent Work Agenda. Section 2 analyses the relationship between the ILO's mandate and the objective of sustainable development. Section 3 presents the ILO's concept of "just transition", the ILO Just Transition Guidelines and their links to the international labour standards.

1. ILO and its standard-setting role

The International Labour Organization (ILO), created in 1919 as part of the Treaty of Versailles, is – since 1946 - the oldest specialized agency of the United Nations. The ILO is (the only one of its kind), an international organization that brings non-governmental representatives - employers and workers - in its executive and plenary bodies – the ILO Governing Body and the International Labour Conference (ILC).⁷³ The ILO's competence pertains to the "world of work", the pursuit of a balance between economic and social objectives and promotion of the "Decent Work Agenda".⁷⁴ The ILO's constitutional mandate explicitly includes development and promotion of international labour standards (ILSs), negotiated on the tripartite basis and voluntarily adopted by the ILO Member States.⁷⁵ The promotion and monitoring of international labour standards (ILSs) by the ILO also includes fostering legal certainty as to their meaning and implications.

A. ILO Conventions, Recommendations and tripartite Guidelines

The international labour standards (ILS) comprise of Conventions, which are binding on the Member States that ratify them, and Recommendations. The notion of a "Recommendation" is often misleading as to the nature of these ILO standards. ILO Recommendations do not require ratification; however, they are adopted in the same process as ILO Conventions - as a result of international tripartite standard-setting process. ILO Recommendations are formally adopted, by the a majority of two-thirds of the votes cast by the International Labour Conference (ILC) delegates, in the same way as the ILO Conventions.⁷⁶ In case of both ILO Conventions and Recommendations, Member States are required to communicate, within one year, the adopted standard to the "competent national authority" (usually the parliament) for the purposes of its implementation.⁷⁷ Member States are also required to inform the Director-General of the International Labour Office

⁷³See: Articles 3 and 7 ILO Constitution. Respectively, each group holds ½, ¼, ¼ of the total votes in the annual International Labour Conference (Article 65§2 ILO Constitution) and in the ILO Governing Body (Article 3 and 7 ILO Constitution) as well as in the ILO Committee of Freedom of Association, a supervisory body set up in 1951 for the purpose of examining complaints about violations of freedom of association, whether or not the country concerned had ratified the relevant conventions.

⁷⁴ ILO's mandate has been updated in 1944, 1998 and 2008, by the adoption of, respectively Declaration of Philadelphia (1944), Declaration on Fundamental Principles and Rights and Work (1998), Declaration on Social Justice for a Fair Globalization (2008) and ILO Centenary Declaration for the Future of Work (2019), in order to express more contemporary vision of the ILO's mandate. In 1946 mandate Declaration of Philadelphia, 1944. In 1946 it has been annexed to the ILO's Constitution and forms an integral part of it by Article 1.

⁷⁵ See: Article 10 ILO Constitution.

⁷⁶ Article 19(2) ILO Constitution.

⁷⁷ Article 19(5)(b) and (c) and Article 19(6)(b) and (c) of the ILO Constitution.

of the action taken.⁷⁸ Moreover, ILO Recommendations may be subject to a further obligatory reporting to the Director-General of the ILO, as requested by the Governing Body. In such cases, Member States need to report the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them”.⁷⁹

As such, ILO Recommendations provide internationally negotiated instruction on how the ILO Conventions should be applied and implemented, as opposed to non-binding, expert-driven or Office-driven, recommendations. As of 2024, the ILO has adopted 191 Conventions⁸⁰ and 208 Recommendations.⁸¹ ILO standards – Conventions and Recommendations - are minimum standards that must not affect more favourable national conditions (Article 19 (8) of the ILO Constitution). ILO Conventions may not be ratified with reservations.

The ILO may adopt tripartite Guidelines which are negotiated and adopted by a meeting of delegates from all 3 constituency groups (Governments, Employers, Workers). These meetings are called “tripartite meetings of experts” and they receive a specific mandate to discuss and introduce new substantive recommendations that are seen as relevant for the effective implementation of the ILO constitutional mandate and relevant ILS. Meetings of tripartite experts can accordingly be characterized as fora for ongoing dialogue between the ILO constituents that advances both the development as well as implementation of the ILS. Such guidelines are then adopted by the ILO Governing Body and can also be subject of endorsement by the International Labour Conference.

The ILO’s supervisory system encompasses 3 main bodies – the ILO Committee of Experts on Application of Conventions and Recommendations (CEACR) - that is comprised of independent judicial experts - and two political, tripartite bodies – the Committee of Application of Standards (CAS), made of Members’ delegates to the ILC, and the Committee on Freedom of Association (CFA), made of the members of the ILO Governing Body – ½ representatives of Governments, ¼ of representatives of workers’ and employers’ organizations.

B. ILO Fundamental Conventions and ILO Governance Conventions

Since 2023, 5 categories of rights at work - those concerned with freedom of association and collective bargaining, prohibition of forced or compulsory labour, child labour, discrimination in employment and occupation and the right to safe and healthy working environment- are considered as fundamental principles and rights at work, on the basis of the 1998 ILO Declaration on Fundamental Principles and Rights at Work, as updated in 2023. The 1998 Declaration commits ILO Member States to respect and promote these principles and rights regardless their level of development and whether or not they have ratified the relevant Conventions.

The 5 categories of ILO fundamental principles and rights at work are contained in 11 relevant standards – 10 Conventions and 1 Protocol.⁸² These 11 ILO standards have “fundamental” status.

⁷⁸ Ibidem.

⁷⁹ Article 19(6)(d) of the ILO Convention.

⁸⁰ <https://www.ilo.org/dyn/normlex/en/f?p=1000:12000:::>

⁸¹ <https://www.ilo.org/dyn/normlex/en/f?p=1000:12010:::>

⁸² The 11 fundamental instruments are: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ; Right to Organise and Collective Bargaining Convention, 1949 (No. 98) ; Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol) ; Abolition of Forced Labour Convention, 1957 (No. 105); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No.

The 1998 ILO Declaration commits ILO Member States to respect and promote principles and rights regardless their level of development and whether or not they have ratified the relevant Conventions. Based on the 1998 ILO Declaration and adaptation of application of Article 19(5)(e) of ILO Constitution, Member States that have not yet ratified the fundamental instruments are obliged to report annually on the status of the relevant rights and principles within their borders, noting impediments to ratification.⁸³ As such, fundamental instruments of the ILO have a unique status in international law, as they create reporting obligations also on the non-ratifying States.

In addition, 4 ILO Conventions have been recognized in the 2008 ILO Social Justice Declaration as “governance (or priority) standards”, that is, containing principles of special significance from the viewpoint of labour governance, such as those related to employment policies, labour inspection and tripartite consultation.⁸⁴ Of note, ILO Employment Policy Convention No. 122,⁸⁵ highly relevant to just transition policies, provides normative basis for a recurrent discussion on the strategic objective of employment, that takes place every 5 years, as part of the follow-up to the 2008 Social Justice Declaration.

C. ILO and the concept of decent work

“Decent work” is a concept closely related to the ILO fundamental instruments. The concept was developed in 1999⁸⁶ and institutionalized in the 2008 Declaration on Social Justice for a Fair Globalization⁸⁷ – accordingly, all ILO Members States must pursue policies based on four strategic objectives: employment, social protection, social dialogue, and rights at work (this is the “Decent Work Agenda”).

Thus, the ILO builds the concept of decent work on four components - full and productive employment, rights at work, social protection and the promotion of social dialogue.⁸⁸

Employment here covers work of all kinds and has both quantitative and qualitative dimensions. Therefore, decent work applies to all workers - not just to workers in the formal economy or those

111); Occupational Safety and Health Convention, 1981 (No. 155); Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) . See: <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

⁸³ See: Annex (Revised) Follow-up to the 1998 Declaration. <https://www.ilo.org/declaration/lang--en/index.htm>

⁸⁴ The 4 governance (priority) instruments are: Employment Policy Convention, 1964 (No. 122); Labour Inspection Convention, 1947 (No. 81); Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144); Labour Inspection (Agriculture) Convention, 1969 (No. 129).

⁸⁵ ILO Employment Policy Convention, 1964 (No. 122), available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312267

⁸⁶ ILO (1999) Report of the Director-General: Decent work. International Labour Conference, 87th Session, Geneva, available at: [https://www.ilo.org/public/libdoc/ilo/P/09605/09605\(1999-87\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09605/09605(1999-87).pdf)

⁸⁷ ILO Declaration on Social Justice for a Fair Globalization, 2008. The Declaration was updated in 2022 to reflect the inclusion of a safe and healthy working environment in the ILO framework of fundamental principles and rights at work. Available at: , https://www.ilo.org/global/about-the-ilo/mission-and-objectives/WCMS_099766/lang--en/index.htm

⁸⁸ ILO (1999) Report of the Director-General: Decent work. International Labour Conference, 87th Session, Geneva, available at: [https://www.ilo.org/public/libdoc/ilo/P/09605/09605\(1999-87\).pdf](https://www.ilo.org/public/libdoc/ilo/P/09605/09605(1999-87).pdf)

engaged on the basis of employment contract but also to e.g. unregulated wage workers, the self-employed and home workers.⁸⁹

Accordingly, the goal of decent work is not just the creation of jobs, but the creation of jobs of acceptable quality and linked to rights, social protection and social dialogue.⁹⁰

2. ILO and the objective of Sustainable Development

The key objectives underpinning the ILO's mandate are interlinked with several principles relevant to the concept of sustainable development. This relationship stems from the ILO Constitution which commits ILO Member States to work towards social justice, eradication of poverty and decent work for all, while ensuring equitable economic growth.

In the 2008 ILO Social Justice Declaration⁹¹ the ILO Member States and social partners have reaffirmed this mandate, stating that the role of the ILO is to “facilitate meaningful and coherent social policy and sustainable development.”⁹² In 2019, the ILO Centenary Declaration for the Future of Work stated that a fair, inclusive and secure future of work - with full, productive and freely chosen employment and decent work for all - is fundamental for sustainable development that puts an end to poverty and leaves no one behind. (ILO Centenary Declaration, Part I. A, B and C). In this regard, the Centenary Declaration called for the ILO to carry forward its constitutional mandate for social justice by putting workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies (ILO Centenary Declaration, Part I. D). The ILO is not concerned only with the social and economic aspects of development, as opposed to environmental issues. The ILO's Decent work agenda has been extended to the Green Jobs Program which incorporates all the 3 pillars of sustainable development and all the relevant labour standards in its implementation.⁹³ Further, several “environmental” 2030 Agenda SDGs have been identified as of particular importance to the ILO's mandate and areas of work, including SDG 12 (sustainable production and consumption), SDG 13 (climate change), SDG 14 (oceans) and SDG 15 (ecosystems).⁹⁴ Accordingly, ILO's mandate related to topics such as regulation of adverse health and environment impacts of waste and chemicals management (12.4) corporate reporting on sustainability (12.6), resilience and adaptive capacity measures for the response to climate-related hazards and natural disasters (13.1), regulation of sustainable management of fisheries, agriculture and tourism (14.7), resource mobilization for sustainable forest management (15.b) have been recognized as highly relevant to the implementation of the relevant goals and targets of 2030 Agenda by the ILO and its Member States.⁹⁵ In addition to the body of labour standards applicable

⁸⁹ Ibidem, pp. 3-4.

⁹⁰ Ibidem, p. 4.

⁹¹ 2008 ILO Declaration on Social Justice 2for a Fair Globalization, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/genericdocument/wcms_099766.pdf

⁹² Articles II(A) and (B) of the 2008 ILO Social Justice Declaration.

⁹³ <https://www.ilo.org/global/topics/dw4sd/themes/green-jobs/lang--en/index.htm>
<https://www.ilo.org/global/topics/green-jobs/lang--en/index.htm>
 ILO, Climate Change and Labour: The Need for a Just Transition (21 March 2011),
http://www.ilo.org/actrav/what/pubs/WCMS_153352/lang--en/index.htm

⁹⁴ ILO, 2030 Development agenda: ILO Focus targets, available at: <https://www.ilo.org/global/topics/sdg-2030/targets/lang--en/index.htm>

⁹⁵ Ibidem.

in the area of the achievement of the objective of sustainable development, several technical ILO standards explicitly refer to sustainable development goals.⁹⁶

3. ILO concept of Just Transition

A. Definition of Just Transition

The concept of just transition has been developed and agreed upon by the ILO constituents, between 2013-2015, that is, prior to the adoption of the Paris Agreement. Just transition is described as a process “towards an environmentally sustainable economy, which “needs to be well managed and contribute to the goals of decent work for all, social inclusion and the eradication of poverty”.⁹⁷

Accordingly, because of the reference to decent work, the goal of just transition, as conceptualized in international labour law, is not just the creation of jobs, as part of transition towards carbon-neutral climate, but creation of jobs of acceptable quality and linked to fundamental labour rights, social protection and social dialogue (goals of decent work), social inclusion and eradication of poverty. Just transition, by its interconnection with the rights-based decent work concept, establishes a linkage between decent work and climate change.

As a specific subject, the concept of a just transition was first discussed, at the 102nd Session of the International Labour Conference (ILC) in June 2013. In 2013 the ILO constituents adopted a resolution and a set of conclusions concerning sustainable development, decent work and green jobs.⁹⁸ Later, in November 2015, the Governing Body endorsed the tripartite “Guidelines for a just transition towards environmentally sustainable economies and societies for all” (Just Transition Guidelines), based on the principles and key policy areas set out in the 2013 Conference conclusions.⁹⁹ According to the Guidelines, “just transition” is understood as an all-encompassing framework that addresses the need for action on climate change with the need for decent work for all, social inclusion, and eradication of poverty.¹⁰⁰ In 2017 just transition was for the first time mentioned in an international labour standard – the ILO Recommendation No. 205 on Employment and Decent Work for Peace and Resilience.¹⁰¹ Accordingly, ILO Recommendation No. 205 not only deals directly with crisis situations resulting from disasters that can be caused by climate change, but it advocates for response and recovery measures that, importantly, take into account the “*need*

⁹⁶ E.g. ILO Indigenous and Tribal Peoples Convention No. 169 (1989); ILO Promotion of Cooperatives Recommendation No. 193 (2002); ILO Human Resources Development Recommendation No. 195 (2004); ILO HIV and AIDS Recommendation No. 200 (2010); ILO Social Protection Floors Recommendation No. 202 (2012); ILO Transition from the Informal to Formal Economy Recommendation No. 204 (2015); ILO Employment and Decent Work for Peace and Resilience Recommendation No. 205 (2017).

⁹⁷ ILO Just Transition Guidelines, para 4.

⁹⁸ ILO, Resolution and conclusions concerning sustainable development, decent work and green jobs, International Labour Conference, 102nd Session, 2013, available at: https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40relconf/documents/meetingdocument/wcms_223785.pdf

⁹⁹ ILO, Guidelines for a Just Transition Towards Environmentally Sustainable Economies and Societies for All (ILO Just Transition Guidelines), 2015, available at: https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/documents/publication/wcms_432859.pdf

¹⁰⁰ ILO Just Transition Guidelines, para 4.

¹⁰¹ Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R205

for a just transition towards an environmentally sustainable economy’,” including in its guiding principles.

Next, in 2019, the ILC adopted ILO Centenary Declaration for the Future of Work at its 108th (Centenary) Session.¹⁰² The Declaration recognizes climate and environmental change among the drivers of transformative change in the world of work. It directs the efforts of the ILO to “ensuring a just transition to a future of work that contributes to sustainable development in its economic, social and environmental dimensions”.

Most recently, in June 2023, the International Labour Conference both (unanimously) endorsed the ILO Just Transition Guidelines and adopted a framework for action.¹⁰³ This framework covers the social dimension of environmental and climate change broadly through four supportive elements; namely: (i) promoting inclusive, sustainable and job-rich economies; (ii) advancing social justice; (iii) managing the process of just transition; and (iv) financing a just transition.

B. ILO Just Transition Guidelines

ILO Just Transition Guidelines have been debated constructed and adopted by means of a tripartite process involving Governments, workers and employers, thus reflecting broad support for those instruments from the ILO constituents. The Guidelines highlight 9 policy areas which should be taken into account in a just transition framework. Each includes issues to be addressed by governments, workers’ and employers’ organizations – separately and/or jointly. These key policy areas to address environmental, economic and social sustainability simultaneously include:

- I. Macroeconomic and growth policies
- II. Industrial and sectoral policies
- III. Enterprise policies
- IV. Skills development
- V. Occupational safety and health
- VI. Social protection
- VII. Active labour market policies
- VIII. Upholding labour rights and standards in the transition
- IX. Social dialogue and tripartism

As described above, ILO Guidelines that are adopted by tripartite meetings of experts are meant to advance both the development as well as implementation of the international labour standards.

C. The role of ILS in sustainable development and just transition

The ILO standards have been explicitly referenced in the sustainable development instruments. The 1997 Rio+5 Resolution lists “secure employment for all” among objectives of sustainable development while 2002 Johannesburg Declaration refers to the ILO Declaration on Fundamental Principles and Rights at Work.¹⁰⁴

The role of international labour standards in the sustainable development is covered by the UN Sustainable Development Goal 8: “Promote sustained, inclusive and sustainable economic growth,

¹⁰² ILO Centenary Declaration for the Future of Work, 2019, para. II(A)(i).

¹⁰³ ILO, Resolution and conclusions concerning a just transition towards environmentally sustainable economies and societies for all, 111st Session, 2023, available at: https://www.ilo.org/ilc/ILCSessions/111/committees/just-transition/WCMS_885375/lang--en/index.htm

¹⁰⁴ 2002 Johannesburg Declaration, formulates, among the agreed commitments to sustainable development, that States “agree to provide assistance to increase income-generating employment opportunities, taking into account the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization”. Part “Our common commitments to sustainable development”, para 28.

full and productive employment and decent work for all.” Labour rights are a central tenet of those provisions. Thus, section 8.8 of the SDGs requires Member States to: “*Protect labour rights and promote safe and secure working environments for all workers.*” Accordingly, sustainable development requires transposition of the provisions of international labour standards protecting labour rights into national laws and practices.

The role of international labour standards in sustainable development towards carbon-neutral climate and environment is reflected in the ILO Just Transition Guidelines. Each of the policy areas is linked to the international labour standards complements (ILO Conventions and Recommendations). As the Conclusions to the Resolution concerning sustainable development, decent work and green jobs from the 2013 International Labour Conference (ILC) state in Paragraph 14(m): “*International labour standards offer a robust framework for addressing the challenges to the world of work associated with the greening of the economy and, more broadly, with the transition towards sustainable development and poverty eradication.*” The Guidelines refer to these conclusions when governments are asked, in Paragraph 15(b), to “*consider and promote those international labour standards most relevant to the just transition framework towards environmentally sustainable economies and societies for all (as listed in the appendix of the ILC 2013 conclusions), with a view to their ratification and full implementation*”. More detailed analysis of links between just transition policy areas listed in the ILO Guidelines and the international labour standards is presented in ANNEX 2.

4. Conclusions

International labour law provides with highly relevant context for interpretation of the reference to just transition in international climate law.

The concept of just transition is firmly grounded in the ILO’s constitutional mandate to pursue balance between economic and social objectives. In 2017 the ILO adopted the first international labour standard dealing directly with crisis situations resulting from disasters that can be caused by climate change - the ILO Recommendation No. 205 on Employment and Decent Work for Peace and Resilience. This instrument explicitly mentions the concept of “just transition.” In 2019, ILO Centenary Declaration explicitly directed the efforts of the ILO to “ensuring a just transition to a future of work that contributes to sustainable development”.

The ILO also provides with an instrument that is “*a source of global understanding for the term - just transition*” – as stated in the Just Transition Declaration adopted at COP 16 in Glasgow, 2021 – that is, the ILO Just Transition Guidelines. It should be noted that the Guidelines have been debated, constructed and adopted by means of a tripartite process involving Governments, workers and employers, thus reflecting broad support for those instruments from the ILO constituents.

Just transition is described as a process that needs to contribute to the goals of decent work for all. Decent work is a rights-based concept defined in detail in international labour law. Accordingly, the goal of just transition, as conceptualized in international labour law, is not just the creation of jobs, as part of transition towards carbon-neutral climate, but creation of jobs of acceptable quality and linked to fundamental labour rights, social protection and social dialogue (goals of decent work), social inclusion and eradication of poverty. Just transition, by its interconnection with the decent work concept, establishes a linkage between decent work and climate change.

The next chapter analyses the ways in which the concept of just transition was referred to in the process of UNFCCC negotiations that led to the adoption of the Paris Agreement, in the Agreement and in subsequent practice.

7. Just Transition as a Concept in International Climate Law

This chapter aims to outline the meaning of just transition as a concept in international climate law. Section 1 describes the emergence of just transition and its inclusion in instruments adopted by the UNFCCC Conference of the Parties (COP) prior to the adoption of the Paris Agreement. Section 2 depicts just transition in the Paris Agreement. Sections 3-5 scrutinize how the concept has been used by the State Parties in subsequent agreements and practice – including in the COP decisions following the Paris Agreement, in the State Parties’ NDCs which play central role in the implementation of the Paris Agreement and in the national climate change laws.

1. Just Transition in instruments adopted by the UNFCCC Conference of the Parties (COP) prior to the adoption of the Paris Agreement

The concept of just transition linked to decent work was first included in the Cancún Agreements, adopted in 2010 at COP 16. Just transition was mentioned in the text concerning a shared vision for long-term cooperative action, where it was affirmed that “*addressing climate change requires a paradigm shift towards building a low-carbon society [...] while ensuring a just transition of the workforce that creates decent work and quality jobs.*”¹⁰⁵ The concept was further mentioned in the context of addressing the economic and social consequences of response measures, linking in this way just transition with broader commitments under the UNFCCC regime contained in Article 4(1)(f)(h), (8) and (10) UNFCCC. Here, the COP recognised “*the importance of avoiding or minimizing negative impacts of response measures on social and economic sectors, promoting a just transition of the workforce, the creation of decent work and quality jobs in accordance with nationally defined development priorities and strategies, and contributing to building new capacity for both production and service-related jobs in all sectors, promoting economic growth and sustainable development.*”¹⁰⁶

Just transition was later included in the subsequent decisions from COP 17 in Durban, 2011, and COP 18 in Doha, 2012, alongside the related, well-established concepts, such as sustainable development and poverty eradication. COP 17 in Durban urged the Parties, “*in implementing their policies and measures to promote a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities and strategies,*” to assist developing country Parties to promote economic diversification in the context of sustainable development and “*to give full consideration to the positive and negative impacts of the implementation of response measures to mitigate climate change on society.*”¹⁰⁷

COP 17 also established a work program and a forum on the impact of the implementation of response measures, for which just transition was chosen as one of the focus areas,¹⁰⁸ with the effect of institutionalizing the discussions on the societal effects of response measures and just transition within the UNFCCC regime.

¹⁰⁵ UNFCCC ‘Decision 1/CP.16, The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention’ (15 March 2011) UN Doc FCCC/CP/2010/7/Add.1 section I. A shared vision for long-term cooperative action, para 10.

¹⁰⁶ UNFCCC ‘Decision 1/CP.16’, *ibid*, section E. Economic and social consequences of response measures, recital 4.

¹⁰⁷ UNFCCC ‘Decision 2/CP.17, Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention’ (15 March 2012) UN Doc FCCC/CP/2011/9/Add.1 paras 87–89, available at: <https://unfccc.int/resource/docs/2011/cop17/eng/09a01.pdf>

¹⁰⁸ UNFCCC ‘Decision 8/CP.17, Forum and work programme on the impact of the implementation of response measures’ (15 March 2012) UN Doc FCCC/CP/2011/9/Add.2.

Next year, COP 18 in Doha kept the reference to just transition in the text concerning economic and social consequences of response measures and reaffirmed *“the importance of avoiding or minimizing negative impacts of response measures on social and economic sectors, promoting a just transition of the workforce, the creation of decent work and quality jobs in accordance with nationally defined development priorities and strategies, and contributing to building new capacity for both production and service-related jobs in all sectors, promoting economic growth and sustainable development”*.¹⁰⁹

2. Just Transition in the Paris Agreement

The Paris Agreement introduces for the first time the concept of just transition, together with the reference to decent work, into the international climate change treaty law.

Preambular recital 10 of the Paris Agreement reads: *“Taking into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities,”*.

The subsequent recital 11, relevant to labour rights contained in both international labour and human rights law, reads: *“Acknowledging that climate change is a common concern of humankind, Parties 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,”*.

Apart from preambular reference to just transition, decent work and human rights, the Paris Agreement contains specific references to several principles and concepts with which just transition, decent work and the mandate of the ILO are closely related. These principles and concepts are included in the operative part of the treaty and include the objective of sustainable development, principle of equity and obligation to consider the concerns arising from the adverse impacts of the implementation of response measures.

Reference to the objective of sustainable development features in the core Article of the Paris Agreement on adaptation – Article 2. Accordingly, the Paris Agreement explicitly puts its objective – strengthening of the global response to the threat of climate change by achieving the long-term temperature goals – in the context of sustainable development and eradication of poverty. Article 2.1. states: *“This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty”*. The intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty is explicitly emphasized in preambular recital 8. Mitigation obligations contained in Article 4 are also put in context of sustainable development in Article 4.1.

Obligation to consider the impacts of response measures is contained in the core Article 4 of Paris Agreement on mitigation. In Article 4(15) the Paris Agreement states that Parties *“shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.”* As illustrated in the previous section, just transition has served, from the start, as a key focus area within UNFCCC work relating to this commitment.

As part of COP21 (adopting the Paris Agreement in 2015) Parties also agreed, (in decision 11/CP.21), to improve the existing Forum on the impact of the implementation of response measures.

¹⁰⁹ UNFCCC ‘Decision 1/CP.18, Agreed outcome pursuant to the Bali Action Plan’ (28 February 2013) UN Doc FCCC/CP/2012/8/Add.1 section E. Economic and social consequences of response measures, recital 4, available at: <https://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf>

The work programme adopted at the meeting comprised two areas: Economic diversification and transformation; and “*just transition of the workforce, and the creation of decent work and quality jobs.*”¹¹⁰

Further, the Paris Agreement refers to the principle of equity in Article 2(2) on adaptation, where it reads that “*this Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.*” In the core Article 4 on mitigation, the Paris Agreement states that “*In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, [...], on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.*”(Article 4.1). And in Article 14.1 on the assessment of progress of implementation of the treaty by the Conference of the Parties (COP) the Paris Agreement states that such “global stocktake” should be done “in the light of equity”.¹¹¹

3. Just Transition in the subsequent agreements and practice by the Parties to UNFCCC

Since the Paris Agreement, the just transition has been addressed by the UNFCCC process in a number of follow-up ways. These include the following:

At COP 24 in Katowice, 2018, Parties have revised the 6-year work program on the impact of the implementation of response measures¹¹² first introduced at COP 17 in Durban, 2011, that confirmed both “*economic diversification and transformation*” and “*just transition of the workforce, and the creation of decent work and quality jobs*” as part of the forum’s work under the Paris Agreement. A ministerial declaration - “Solidarity and Just Transition Silesia Declaration” – promoted by the Polish presidency of the conference was also adopted as part of the leaders’ summit at COP 24. The Silesia Declaration for example, stresses that “*just transition of the workforce and the creation of decent work and quality jobs are crucial to ensure an effective and inclusive transition to low greenhouse gas emission and climate resilient development and to enhance the public support for achieving the-long term goals of the Paris Agreement.*”¹¹³

At the next climate conference (COP25 in Madrid, 2019) the UN and ILO launched their Climate Action for Jobs Initiative - designed to support countries in implementing their national climate action commitments, while ensuring that jobs, well-being and a just transition remain at the heart of climate responses.¹¹⁴

¹¹⁰ Report of the Conference of the Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015, Addendum, Part two: Action taken by the Conference of the Parties at its twenty-first session FCCC/CP/2015/10/Add.2, decision11/CP.21, available at: <https://unfccc.int/resource/docs/2015/cop21/eng/10a02.pdf#page=25>

¹¹¹ Paris Agreement, Article 14.1.” The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the “global stocktake”). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.”

¹¹² decision 7/CMA.1, Annex.

¹¹³ Solidarity and Just Transition Silesia Declaration, paragraph 9, available at: <https://data.consilium.europa.eu/doc/document/ST-14545-2018-REV-2/en/pdf>

¹¹⁴ <https://www.climateaction4jobs.org/>.

Through the decisions made at COP 26 in Glasgow, 2021, and COP 27 in Sharm-el-Sheikh, 2022, Parties have further clarified and extended the content of just transition, compared to its conceptualization in the Paris Agreement.

In the context of mitigation, Paragraph 20 of the Glasgow Climate Pact calls upon the Parties to “*transition towards low-emission energy systems [...] 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.*”¹¹⁵ Paragraph 21 recognizes interrelation between environmental and social pillars of the climate action by emphasizing the importance of protecting, conserving and restoring nature and ecosystems, while ensuring social and environmental safeguards. In the context of implementation, Paragraph 52 recognizes “*the need to ensure just transitions that promote sustainable development and eradication of poverty, and the creation of decent work and quality jobs, including through making financial flows consistent with a pathway towards low greenhouse gas emission and climate-resilient development, including through deployment and transfer of technology, and provision of support to developing country Parties;*”

In Glasgow, the core coal producing countries, including the United States, United Kingdom, all 27 EU member states, Norway, Canada and New Zealand, have signed a Just Transition Declaration,¹¹⁶ committing them to strategies that ensure that workers, businesses and communities are supported as countries transition to greener economies. The Declaration refers to the 2015 ILO Guidelines as a source of “*global understanding for the term “just transition.”* It also recognizes that social dialogue – defined in the Declaration in accordance with the ILO concept of social dialogue as “*dialogue between governments and the representative organisations of workers and employers*” - is necessary for development of effective just transition plans.¹¹⁷ The Declaration commits the signatories to contribute to the goals of decent work, social inclusion and eradication of poverty by supporting principles of local, inclusive and decent work (para 4), social dialogue, social protection. The Declaration refers to targeting the disadvantaged groups, and, together with categories such as those living in poverty, marginalised groups and women, refers to workers in the informal economy. The Declaration also for the first time refers to supply chains and the need to consider the wider environmental, health, social and employment impacts of the operation of global supply chains, including the importance of building climate resilience into supply chains across all industries (para 5). The Declaration commits the signatories to ensure that the supply chains, including the new ones required for the transition, create decent work and equitable employment across borders. In the context of supply chains the Declaration commits the signatories to respect fundamental human and labour rights. The Declaration also commits the signatories to include information on just transition measures into the Paris Agreement reporting (para 6).

The decisions taken at COP 27 in Sharm-el-Sheikh, 2022, and specifically the Implementation Plan, indicate further agreement on just transition measures.¹¹⁸ The Implementation Plan states in the preamble that climate action should be implemented in a manner that is just and inclusive, while minimizing negative social or economic impacts. In Part II of the Plan on “Enhancing ambition and implementation”, Parties resolve to “*implement ambitious, just, equi-table and inclusive transitions*

¹¹⁵ UNFCCC ‘Decision 1/CP.26, Glasgow Climate Pact’ (8 March 2022) UN Doc FCCC/CP/2021/12/Add.1.

¹¹⁶ UN Climate Change Conference, UK, 2021, Just Transition Declaration, available at: <https://webarchive.nationalarchives.gov.uk/ukgwa/20230313132211/https://ukcop26.org/supporting-the-conditions-for-a-just-transition-internationally/>. See also: https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_826717/lang--en/index.htm

¹¹⁷ Ibidem, para 2.

¹¹⁸ UNFCCC, Decision 1/CP.27, Sharm el-Sheikh Implementation Plan, Chapter VII Implementation – pathways to just transition, available at: https://www.informea.org/sites/default/files/decisions/unfccc/drupal_conference_term_4460/cp2022_10a01_E.pdf and Decision 1/CMA.4 available at: https://unfccc.int/sites/default/files/resource/cma2022_10_a01E.pdf?download

to low-emission and climate-resilient development in line with the principles and objectives of the Convention, the Kyoto Protocol and the Paris Agreement.” In Part IV of the Plan on mitigation “just transition” is referred in paras 16, 18 and 19, calling for providing targeted support to the poorest and most vulnerable, emphasizing the importance of ensuring social and environmental safeguards and recognizing the importance of minimizing negative economic and social impacts of the implementation response.

Further, the Implementation Plan contains for the first time a separate part on “Implementation – pathways to just transition” (Part VIII). Paragraph 31 affirms that sustainable and just solutions to the climate crisis must be founded on meaningful and effective social dialogue and participation of all stakeholders. Paragraph 31 “emphasizes that just and equitable transition encompasses pathways that include energy, socioeconomic, workforce and other dimensions, all of which must be based on nationally defined development priorities and include social protection so as to mitigate potential impacts associated with the transition, and highlights the important role of the instruments related to social solidarity and protection in mitigating the impacts of applied measures.

In addition, in decision 1/CMA.4, the Parties decided to establish a dedicated work programme on just transition “for discussion of pathways to achieving the goals of the Paris Agreement outlined in Article 2, paragraph 1, in the context of Article 2, paragraph 2.”¹¹⁹ Further, as part of the work programme, an annual high-level ministerial round table on just transition will be convened.¹²⁰

Finally, the most recent and comprehensive reference to just transition is contained in the Work programme on just transition pathways adopted at COP 28 in Dubai, 2023. The State Parties decided to adopt a work program that should include, among others, the following elements:

- Just and equitable transition, which encompasses pathways that include energy, socioeconomic, workforce and other dimensions, all of which must be based on nationally defined development priorities and include social protection so as to mitigate potential impacts associated with the transition;
- Just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities, including through social dialogue, social protection and the recognition of labour rights;
- Opportunities, challenges and barriers relating to sustainable development and poverty eradication as part of transitions globally to low emissions and climate resilience, taking into account nationally defined development priorities.

COP 26, 27 and 28 have further given a more central role to the concept of just transition in the overall implementation of the Paris Agreement. In these decisions just transition is presented as the overarching method by which to achieve net zero emissions and further as a key part in the implementation of the objectives of the Paris Agreement.

4. Just Transition in the NDCs

This part reviews the inclusion of just transition in other subsequent practices by Parties, such as their NDCs.

The preambular reference to just transition in the Paris Agreement was followed by a significant increase in the use of the term in the context of states’ activities aiming at implementation of the treaty. For example, in the 2020/2021 round of (revised and updated) NDC submissions at least 34

¹¹⁹ Decision 1/CMA.4, Sharm el-Sheikh Implementation Plan, para 52.

¹²⁰ Decision 1/CMA.4, Sharm el-Sheikh Implementation Plan, para 53.

NDCs included a reference to the concept, in addition to the NDC by the European Union representing its 27 Member States (2020).¹²¹ This list includes, for example:

Albania (2021), Argentina (2020), Belize (2021), Bolivia (2022), Canada (2021), Chile (2020), Colombia (2020), Costa Rica (2020), Côte d'Ivoire (2022), Dominica (2022), Dominican Republic (2020), Egypt (2022), (2020), Guatemala (2021), Haiti (2021), Iceland (2021), Indonesia (2021), Lebanon (2021), Mauritania (2021), Mauritius (2021), Montenegro (2021), Namibia (2021), North Macedonia (2021), Norway (2020), Oman (2021), Pakistan (2021), Paraguay (2021), Philippines (2021), Republic of Korea (2021), Serbia (2022), South Africa (2021), Suriname (2020), United Kingdom (2020), Ukraine (2021), Zimbabwe (2021).

In addition, several Parties included a reference to just transition under the section dedicated to fairness and equity considerations- for example: Canada (2021), Montenegro (2021), South Africa (2021), South Korea (2021), United Kingdom (2022).¹²²

Illustrative example: South Africa's Nationally Determined Contribution: Just Transition included under the broader guiding principle of equity.

In the reply to question 7(b) of the questionnaire from Annex I to decision 4/CMA.1: "How the national developed contribution contributes towards Article 2(1)(a) and 4(1) of the Paris Agreement?" [where Article 4(1) puts mitigation in context of equity, sustainable development and eradication of poverty], South Africa's NDC states that: "consistent with the emphasis in Article 4.1 on equity, and the context of sustainable development and efforts to eradicate poverty, our national process aims at a just transition" (p. 27).

Support for the need of just transition and job creation, including in context of generally vulnerable groups, young people, indigenous peoples, is also visible in several NDCs. This list includes, for example:

Argentina (2020), Canada (2020), Chile (2020), Colombia (2020), Dominica (2022), Indonesia (2021) and Mauritius (2021).

Illustrative example: updated Chile's NDC focus on just transition and sustainable development

The update of Chile's NDC is oriented towards the social pillar of mitigation and adaptation actions, comprising of 2 dimensions: just transition and sustainable development (Chapter 3). This pillar informs the four components of the NDCs - mitigation; adaptation; integration; implementation. NDC refers the ILO Just Transition guidelines and the link of just transition concept to human rights and labour standards, as well as measures to manage changes in the labour market (p. 24).

Following the United Nations Climate Action Summit 2019,¹²³ some 46 countries made commitments to support a just ecological transition by formulating national plans for a just transition through social dialogue, the UN Secretary-General and the ILO Director-General launched the Climate Action for Jobs Initiative at the COP25 in Madrid. This list includes:

Albania, Algeria, Andorra, Argentina, Benin, Bolivia, Cabo Verde, Costa Rica, Cote d'Ivoire, Croatia, Dominican Republic, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Ireland, Italy, Jamaica, Luxembourg, Mali, Mexico, Montenegro, Morocco, Netherlands,

¹²¹ Johansson, V (2023) Just Transition as an Evolving Concept in International Climate Law *Journal of Environmental Law*, Volume 35, Issue 2, July 2023, Pages 229–249, <https://doi.org/10.1093/jel/eqad017>

¹²² NDCs by: Canada (2021) p. 22; Montenegro (2021) p. 13; South Africa (2021) p. 27; South Korea (2021) p. 27; United Kingdom (2022) p. 44. Accessed through UNFCCC's NDC registry, available at: <https://unfccc.int/NDCREG>

¹²³ See <https://www.un.org/en/climatechange/>.

New Zealand, Nicaragua, North Macedonia, Panama, Peru, Poland, Republic of Korea, Romania, Samoa, Senegal, Serbia, Spain, Sweden, Tunisia, Ukraine, United Kingdom, Uruguay.

This initiative is designed to support countries in implementing their national climate action commitments, while ensuring that jobs, well-being and a just transition remain at the heart of climate responses.¹²⁴

5. Just Transition in national climate laws

The growing normative force of the concept of just transition is increasingly apparent as the recognition of just transition as a guiding principle for climate action is gaining traction at regional and national levels.

In July 2022, the African Union Executive Council adopted the “African Common Position on Energy Access and Just Energy Transition”.¹²⁵

The concept has further been introduced, in 2021, into the European Climate Law,¹²⁶ which is complemented by the EU’s Just Transition Mechanism, including its Just Transition Fund.¹²⁷ Under the EU Climate Law, the Commission is to consider the ‘need to ensure a just and socially fair transition for all’ when proposing 2040 climate targets.¹²⁸

At the (sub)national level, just transition is found in at least eight different framework laws on climate change, featuring, inter alia, just transition principles and obligations relating to just transition plans. These laws include:

1. Scotland - The Climate Change (Emissions Reduction Targets) Act 2019 (Commencement) Regulations 2020, amending Climate Change (Scotland) Act 2009, s 35(20), 35C;¹²⁹
2. Colombia - L. 2169, diciembre 22, 2021 Diario Oficial No. 51.896 de 2021, art 3 para 2;
3. Fiji - Climate Change Act 2021, s 5 (f);¹³⁰
4. Ireland - Climate Action and Low Carbon Development (Amendment) Act 2021, s 4(8)(k);
5. Portugal - Lei n.º 98/2021 de 31 de dezembro, art 69;¹³¹

¹²⁴ ILO ACTRAV (2019) User’s manual to the ILO’s Guidelines for a just transition towards environmentally sustainable economies and societies for all.

¹²⁵ <https://au.int/en/pressreleases/20220722/africa-speaks-unified-voice-au-executive-council-adopts-african-common>

¹²⁶ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (European Climate Law) [2021] OJ L 243, arts 4(5)(c) and 9.

¹²⁷ European Commission, ‘The Just Transition Mechanism: making sure no one is left behind’ available at: < https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/finance-and-green-deal/just-transition-mechanism_en and Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund [2021] OJ L 231/1.

¹²⁸ European Climate Law (n 16) art 4(5)(c).

¹²⁹ <https://www.legislation.gov.uk/asp/2009/12/contents>

¹³⁰ https://climate-laws.org/documents/climate-change-act-2021_f0c0?id=climate-change-act-2021_8bf7

¹³¹ https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=3520&tabela=leis&ficha=1&pagina=1&so_miolo

6. South Korea - Framework Act On Carbon Neutrality And Green Growth For Coping With Climate Crisis, Sep. 24, 2021, art 3 para 4¹³²;
7. Spain - Ley 7/2021, de 20 de mayo, de cambio climático y transición energética, art 27–29;
8. South Africa - Climate Change Bill 9 of 2022, s 2 (d), 3(d).¹³³

Illustrative case:

Recent laws from Scotland, Fiji, South Korea and South Africa define just transition as a guiding principle for the act itself or its climate plans (see: Annex)

Illustrative case:

South Africa's Climate Change Bill 9 of 2022 requires that the interpretation and application of the Act is guided by, among others, "a contribution to a just transition towards low-carbon, climate-resilient and ecologically sustainable economies and societies which contribute to the creation of decent work for all, social inclusion and the eradication of poverty" (Section 3(d)).

The detailed review of just transition references in national climate laws is provided in ANNEX 1.

6. Conclusions

As illustrated by the history of UNFCCC negotiations since the Cancún Agreements, just transition has, from the start, been linked with broader commitments under the UNFCCC regime to recognise and minimise the adverse socio-economic impacts of response measures to climate change and with the concept of equity. Just transition has also from the start been included alongside the related, well-established concepts, such as sustainable development and eradication of poverty.

It can be also observed that the same wording, in reference to just transition, has been used consistently in the negotiations for the Paris Agreement, in COP decisions and documents produced by the Forum on the impact of response measures, both those preceding and succeeding the Paris Agreement. These references to just transition clearly state the object of transition – they call for a “just transition of the workforce”, in the context of “creation of decent work and quality jobs”.

In the latest COP decisions just transition has been also linked to actions providing targeted support to the “poorest and most vulnerable,” in addition to workforce-oriented measures. This trend confirms a clear commitment to distributional justice measures within a just transition.

Alongside with the inclusion of workforce-oriented “just transition” and the reference to decent work and quality jobs, UNFCCC decisions and documents refer to other components of the ILO Decent Work Agenda, such as social dialogue and social protection.

Similar references are visible in the subsequent agreements and practice by the State Parties, including the COP decisions following the Paris Agreement, in the State Parties’ NDCs and, increasingly, in the national climate laws.

The dedicated work program on just transitions adopted by COP 28 in Dubai, 2023, for discussion of pathways to achieving the goals of the Paris Agreement in context of Article 2(2) – that is, the principles of equity and CBDR – refers explicitly to “just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities, including through social dialogue, social protection and the recognition of labour rights”,

¹³² https://elaw.klri.re.kr/kor_service/lawView.do?hseq=59958&lang=ENG

¹³³ https://www.parliament.gov.za/storage/app/media/Bills/2022/B9_2022_Climate_Change_Bill/B9_2022_Climate_Change_Bill.pdf

establishing the most comprehensive reference to the components of the ILO's Decent Work Agenda.

It can be argued that preambular recital 10 of the Paris Agreement introduces a labour rights-based approach to climate action, reinforced by reference to human rights and the related obligations of States in the preambular recital 11.

On the basis of the Paris Agreement it can be also observed that preambular recital covering just transition is highly relevant to at least two operative treaty terms, those containing obligations related to the commitment to consider the impacts of response measures and the principle of equity.

The next chapter outlines how the concepts of just transition and decent work can factor into the assessment of State obligations in respect of climate change under various sources of law.

8. Obligations of States in Respect of Climate Change

This section describes how the concepts of just transition and decent work can factor into the assessment of State obligations related to: climate change adaptation and mitigation, government procedures (including those related to access to information, public participation, and access to justice), social protection, protection of labour rights defenders, and international cooperation and climate finance.

There are a number of principles from human rights law, international law, and treaty law that are relevant to this assessment. Sources of law relevant to assessing State obligations and climate change include:

- Obligations to Respect, Protect and Guarantee Human Rights
- Obligations to Respect, Promote and Realize Fundamental Principles and Rights at Work
- United Nations Framework Convention on Climate Change (UNFCCC)
- Principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR)
- Principle of Equity Under International Environmental Law

1. Adaptation and Mitigation Measures

States have an obligation to mitigate, i.e. to control and reduce GHG emissions from sources under their jurisdiction to prevent harm and protect fundamental human rights. This obligation is rooted in principles of and provisions of international law, international climate change law as well as human rights law. States also have an obligation to undertake adaptation measures to minimize and mitigate the harms caused by climate change and protect groups at risk of being affected from the impact of climate change. Human rights law recognizes an obligation on the part of States to take reasonable measures to protect and guarantee human rights in the face of foreseeable environmental risks and natural hazards. Accordingly, States must prepare for and respond to the effects of climate change, particularly those that pose a foreseeable threat to human rights.

States also have obligations to respect, promote and realize fundamental principles and rights at work. Accordingly, in taking mitigation and adaptation measures States should address the need to ensure just transition of the workforce, consistent with the principle of decent work for all, as defined by the ILO, within a rights-based context, and in particular the right to work and the right to just and favourable conditions of work.

This would require the States to take a coordinated approach to economic and social policies to promote full, productive, and freely chosen employment, to adopt policies to ensure access to employment opportunities and active labour market policies to support workforce transition towards climate-resilient economy, by creating decent work, that is work that respects the fundamental rights of the person as well as the rights of workers in terms of conditions of work safety, working time regulation, remuneration and social protection. In the climate crisis the new jobs created through mitigation and adaptation measures and well as the remaining jobs, should be good, protected jobs, contributing to social inclusion and eradication of poverty.

Impact assessments offer a useful mechanism to integrate just transition principles in transition planning and practice.

Essential to mitigation and adaptation policies compatible with the principle of just transition and decent work is the negotiation of national, sectoral and company level mitigation and adaptation measures with workers and trade unions and ensuring full access to labour rights for all workers, regardless of occupation, type of employment contract or migration status. There is a clear link

between workers' rights being upheld and the strength of any democracy. The erosion of one amounts to the degradation of the other.

2. Access to Information, Public Participation, and Access to Justice

Workers' participation in environmental debates, including those related to climate change measures, is an essential element in preventing and minimising environmental impacts and ensuring that actions for environmental improvements are accepted and therefore implemented efficiently. At COP27, the agreed Sharm El-Sheikh Implementation Plan affirmed that "*sustainable and just solutions to the climate crisis must be founded on meaningful and effective social dialogue and participation of all stakeholders and notes that the global transition to low emissions provides opportunities and challenges for sustainable economic development and poverty eradication.*"¹³⁴

Procedural environmental rights contained in the relevant environmental instruments (Escazú Agreement,¹³⁵ UNECE Aarhus Convention)¹³⁶— such as the right to receive environmental information held by public authorities, the right to participate in environmental decision-making and the right to a review by an independent body of the authorities' decisions - are interrelated with the relevant labour rights and State obligations. At the same time, international labour standards regulate in detail the content of a fundamental labour and human right to form and join trade unions and bargain collectively. Based on the ILO Constitution, the ILO Member States are under obligation to realize the principles concerning freedom of association and the effective recognition of the right to collective bargaining contained in the fundamental ILO Conventions Nos. 87 and 98.¹³⁷ These obligations arise from the very fact of membership in the ILO and apply to the States even if they have not ratified the Conventions in question.¹³⁸

Procedural environmental rights are interrelated with the relevant procedural labour rights. International labour standards outline the principle of consultation and co-operation between public authorities and employers' and workers' organizations at the industrial and national levels. Social dialogue procedure (ie dialogue between government and workers' and employers' organizations) extends to all matters in context of labour relations,¹³⁹ including environmental matters. Such consultation and cooperation should take place particularly in the preparation and implementation

¹³⁴ UNFCCC, Decision -/CP.27, Sh, arm el-Sheikh Implementation Plan, Chapter VII Implementation – pathways to just transition, para 28.

¹³⁵ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, 2018 (entry into force in 2021), available at: <https://repositorio.cepal.org/items/86cae662-f81c-4b45-a04a-058e8d26143c>

¹³⁶ UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, Aarhus, Denmark, 25.06.1998 (entry into force in 2001), available at: <https://unece.org/DAM/env/pp/documents/cep43e.pdf>

¹³⁷ See: 1998 ILO Fundamental Principles and Rights at Work Declaration, para 2: "Declares that all Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the sub-ject of those Conventions, namely: (a) freedom of association and the effective recognition of the right to collective bargaining;"

¹³⁸ Ibidem.

¹³⁹ See: 2018 ILO Compilation of decisions of the Committee on Freedom of Association (2018 ILO Digest), para 1524.

of laws and regulations affecting workers' and trade unions' interests.¹⁴⁰ Equally, the principle of consultation and cooperation applies to the process of formulation of public policy on labour, social and economic matters.¹⁴¹

The ILO supervisory bodies have reaffirmed that Governments should hold consultations with the most representative workers' and employers' organizations before the Government submits a draft to the Legislative Assembly or establishes a labour, social or economic policy.¹⁴² The ILO Committee on Freedom of Association (CFA) stressed the importance that it attaches to holding consultations with sufficient advance notice and, in particular, to ensuring that the drafts of laws or decrees are submitted to these organizations for consultation well before their adoption by the Government as a prerequisite for consideration by Parliament.¹⁴³ Accordingly - as enshrined in the Paragraph 13a of 2015 ILO Guidelines for a just transition towards environmentally sustainable economies and societies for all - social dialogue on environmental matters has to be an integral part of the institutional framework for policy-making and implementation at all levels.¹⁴⁴

However, although the principle of consultation and cooperation contained in the international labour standards clearly extends to environmental decision-making, including legislative reforms and public policy, the implementation is lagging behind. As observed by UN Special Rapporteur Voule in his thematic report: *Exercise of the rights to peaceful assembly and of association as essential to advancing climate justice*, workers and unions have been largely excluded from climate policy discussions and from, for example, providing meaningful input into discussions on Governments' nationally determined contributions.¹⁴⁵

Limited access to information and opportunities for consultation remains a significant barrier in access to the procedural environmental rights by workers and trade unions. In order to overcome barriers to the full enjoyment of these rights all workers should have full access to their labour rights.

3. Social protection

Universal social protection, as understood in the ILO Social Security (Minimum Standards) Convention No.102 and the ILO Social Protection Floors Recommendation No. 202, refers to actions and measures to progressively build and maintain nationally appropriate social protection systems that are comprehensive, sustainably financed and provide adequate protection. ILO Peace and Resilience Recommendation No. 205 highlights the role of social protection floors in preventing crises arising out of natural disasters, enabling recovery and building resilience.¹⁴⁶ Universal access

¹⁴⁰ 2018 ILO Digest, paras 1530, 1532.

¹⁴¹ 2018 ILO Digest, para 1525.

¹⁴² 2018 ILO Digest, para 1532.

¹⁴³ 2018 ILO Digest, para 1543.

¹⁴⁴ https://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_ent/documents/publication/wcms_432859.pdf

¹⁴⁵ Report A/76/222: *Exercise of the rights to peaceful assembly and of association as essential to advancing climate justice*, para 40.

¹⁴⁶ ILO Recommendation No. 205 paragraph 21.

to social protection systems is crucial for a just transition to more environmentally sustainable economies and societies.¹⁴⁷

At COP27, the agreed Sharm El-Sheikh Implementation Plan emphasized that a “*just and equitable transition encompasses pathways that include energy, socioeconomic, workforce and other dimensions, all of which must be based on nationally defined development priorities and include social protection so as to mitigate potential impacts associated with the transition*”.¹⁴⁸ The text also highlighted “*the important role of the instruments related to social solidarity and protection in mitigating the impacts of applied measures*”.¹⁴⁹

A just transition towards an environmentally sustainable economy for all requires not only macroeconomic stabilization, but a strong link between social protection and employment to support workers throughout the transition and particularly in sectors negatively impacted by climate change or decarbonization efforts. Without social protection for all, based on rights, the transition may leave some behind, risking its acceptance and sustainability. Universal social protection systems are thus crucial to ensure that the transition will be socially just. The development of such measures should be undertaken in negotiation with workers and their organisations.

4. Protection of human and labour rights defenders

Labour rights defenders, as well as environmental and human rights defenders, are protected by a range of human rights yet are routinely subjected to threats, harassment, intimidation, violence and criminalization.

International labour standards protect workers’ representatives in the exercise of legitimate trade union activities, including those related to environmental activism related to workplace. As ILO supervisory bodies repeatedly underlined, “freedom of association can only be exercised in conditions in which fundamental human rights, and in particular those relating to human life and personal safety, due process and the protection of premises and property belonging to workers’ organizations, are fully respected and guaranteed.”¹⁵⁰

The Escazú Agreement is also applicable to protection of labour rights defenders in environmental matters. The Escazú Agreement requires that States take “effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters,” and “take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidation that human rights defenders in environmental matters may suffer.”¹⁵¹ The rights of labour and human rights defenders to freedom of expression, assembly, association, and participation, freedom from harassment and persecution must be protected by States.

5. International Cooperation and Climate Finance

States with greater financial capacity and greater responsibility for climate change have obligations to provide greater technical and logistical assistance for mitigation and adaptation activities in

¹⁴⁷ ILO (2021) Resolution concerning the second recurrent discussion on social protection (social security).

ILC.109/Resolution III available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_806099.pdf

¹⁴⁸ UNFCCC, Decision -/CP.27, Sh, arm el-Sheikh Implementation Plan, Chapter VII Implementation – pathways to just transition, para 29.

¹⁴⁹ Ibidem.

¹⁵⁰ ILO CFA Digest, paras 81-118, available at : https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/freedom-of-association/WCMS_632659/lang--en/index.htm

¹⁵¹ Escazú Agreement, Art. 9(2) and (3).

States that are most affected by climate change and have fewer resources to respond to it. Accordingly, COP decisions started to increasingly refer to “just transition financing”. For example, according to the Glasgow Climate Pact, just transition includes the “*deployment and transfer of technology, and provision of support to developing country Parties*”.¹⁵² Further, under the decision on ‘Matters relating to the Standing Committee on Finance’, Parties emphasized the need to ensure that *‘just transition financing is incorporated into approaches to align climate action with the goals of the Paris Agreement’*.¹⁵³ Furthermore, the 2023 ILO Resolution concerning just transition highlights the critical importance of aligning *all* climate finance with just transition rather than having a separate category of just transition financing.¹⁵⁴

Climate finance should embrace creation of decent work in the developing countries. Specifically, the Glasgow Climate Pact has recognized “*the need to ensure just transitions that promote sustainable development and eradication of poverty, and the creation of decent work and quality jobs, including through making financial flows consistent with a pathway towards low greenhouse gas emission and climate-resilient development, including through deployment and transfer of technology, and provision of support to developing country Parties*”.¹⁵⁵

ILO Recommendation No. 205 contains specific provisions relating to international cooperation on the topic of international cooperation for promoting peace, preventing and mitigating crises, enabling recovery and building resilience through employment and decent work (Paragraphs 42-48). Accordingly, in preparing for and responding to crisis situations, States should strengthen cooperation and take appropriate steps through bilateral or multilateral arrangements, including through the United Nations system, international financial institutions and other regional or international mechanisms of coordinated response. States should make full use of existing arrangements and established institutions and mechanisms and strengthen them, as appropriate. Crisis responses, including support by regional and international organizations, should provide for a central focus on employment, decent work and sustainable enterprises, and should be consistent with applicable international labour standards. States should cooperate to promote development assistance and public and private sector investment in crisis response for the creation of decent and productive jobs, business development and self-employment. International organizations should reinforce their cooperation and the coherence of their crisis responses within their respective mandates, making full use of relevant international policy frameworks and arrangements. The ILO should play a leading role in assisting Members to provide crisis responses based on employment and decent work and focusing on employment promotion, labour market integration or access, as appropriate, capacity development and institution building, in close cooperation with regional and international institutions. Members should strengthen international cooperation, including through the voluntary and systematic exchange of information, knowledge, good practices and technology for promoting peace, preventing and mitigating crises, enabling recovery and building resilience. There should be close coordination of and complementarity

¹⁵² UNFCCC ‘Decision 1/CP.26, para 52.

¹⁵³ UNFCCC ‘Decision 5/CP.26, Matters relating to the Standing Committee on Finance’ (8 March 2022) UN Doc FCCC/CP/2021/12/Add.1 para 10.

¹⁵⁴ Paragraph 21 of the 2023 ILO resolution on just transition: [Resolution concerning a just transition towards environmentally sustainable economies and societies for all \(ilo.org\)](https://www.ilo.org/public/english/standards/instr/doc/2023/02/230201.pdf) reads: “*Governments, in consultation with the most representative employers’ and workers’ organizations should ...in line with the Paris Agreement, mobilize sustainable, affordable, predictable and long-term finance from public and private, domestic and international sources, and aligning public and private financial flows and public procurement to the objectives of a just transition. “This is important as it refers to aligning **all** climate finance with just transition rather than having a separate category of just transition financing.*

¹⁵⁵ UNFCCC ‘Decision 1/CP.26, Glasgow Climate Pact’ (8 March 2022) UN Doc FCCC/CP/2021/12/Add.1, para 52.

among crisis responses, as appropriate, in particular between humanitarian and development assistance, for the promotion of full, productive, freely chosen employment and decent work for peace and resilience.

9. Conclusions

Climate change is already having pervasive and harmful impact on ecosystems as well as the world of work across the planet. The current decent work deficits are in many instances undermined by harmful climate impacts and further perpetuated by insufficient or inadequate mitigation response.

The climate emergency is preventing the full enjoyment of a range of human and labour rights for certain individual workers, groups or categories of workers, or workers coming from particular communities, populations, and regions, including, among others, the rights to: work, to fair and satisfactory working conditions, to safe and healthy environment, to form and join trade unions, to collective bargaining and the right to strike, to freedom from child labour and to non-discrimination.

States should respond to such harms, as part of their climate change response which should include fostering inclusive low carbon economies and realizing a just transition.

Just transition has grown into an increasingly recognized concept in climate law and policy. During the recent decade, it has been included in both international and national climate law frameworks, including the reference in the Preamble of the Paris Agreement in 2015. The meaning and contents of the concept of just transition towards environmentally sustainable economies and societies have been developed in detail in international labour law. This concept is also interlinked with several principles and concepts developed in international law that are relevant both to international environmental law and international labour law, such as sustainable development, principle of integration, principle of (inter- and intra-generational) equity, principle of common but differentiated responsibilities and the concept of minimizing the adverse impacts of response measures.

These principles and concepts, as well as the relevant provisions of international law, should be taken into account when interpreting the legal implications of the inclusion of the concept of just transition in international climate law.

The concept of just transition is firmly grounded in the ILO's constitutional mandate to pursue balance between economic and social objectives. Just transition is described as a process that needs to contribute to the goals of decent work for all. Decent work is a rights-based concept defined in detail in international labour law. Accordingly, the goal of just transition, as conceptualized in international labour law, is not just the creation of jobs, as part of transition towards carbon-neutral climate, but creation of jobs of acceptable quality and linked to fundamental labour rights, social protection and social dialogue (goals of decent work), social inclusion and eradication of poverty. Just transition, by its interconnection with the decent work concept, establishes a linkage between decent work and climate change.

As illustrated by the history of UNFCCC negotiations since the Cancún Agreements, the same wording, in reference to just transition, has been used consistently in the negotiations for the Paris Agreement, in COP decisions and documents produced by the Forum on the impact of response measures, both those preceding and succeeding the Paris Agreement. Alongside with the inclusion of workforce-oriented "just transition" and the reference to decent work and quality jobs, UNFCCC decisions and documents referred to other components of the ILO Decent Work Agenda, such as social dialogue and social protection. Similar references are visible in the subsequent agreements and practice by the State Parties, including the COP decisions following the Paris Agreement, in the State Parties' NDCs and, increasingly, in the national climate laws.

Accordingly, it is evident that the concept of just transition developed in international labour law is highly relevant to the international climate law. Just transition, together with another key concept – decent work – influence the assessment of State obligations in respect of climate change.

ANNEX 1

JUST TRANSITION IN NATIONAL CLIMATE LAWS

<p>Scotland's Climate Change (Emissions Reduction Targets) Act 2019 (Commencement) Regulations 2020, amending Climate Change (Scotland) Act 2009</p>	<p>Part 3 Reporting and planning duties, 35.Climate change plan</p> <p>35 (20)The plan must also, with reference to the just transition principles (see section 35C)— (a)explain how the proposals and policies set out in the plan are expected to affect different sectors of the Scottish economy and different regions in Scotland, including how they are expected to affect employment in those sectors and regions, and</p> <p>35C Just transition principles</p> <p>(1)In this Act, the “just transition principles” are the importance of taking action to reduce net Scottish emissions of greenhouse gases in a way which— (a)supports environmentally and socially sustainable jobs, (b)supports low-carbon investment and infrastructure,</p>
<p>Fiji: Climate Change Act 2021, s 5 (f);</p>	<p>PART 1—PRELIMINARY</p> <p>Principles</p> <p>Section 5.</p> <p>This Act must be implemented in accordance with the following principles—</p> <p>(a) when taking action to address climate change, Fiji will respect, promote and consider the rights and freedoms recognised in Chapter 2 of the Constitution;</p> <p>where Chapter 2 of the Constitution of Fiji (Bill of Rights) contains fundamental labour rights in Articles: 10 (freedom from slavery, servitude, forced labour and human trafficking); 18 (freedom of assembly), 19 (freedom of association); 20 (employment relations, including proper working conditions, trade union rights, OSH); 33 (right to work and a just minimum wage); 37 (right to social security schemes)</p> <p>[...]</p> <p>(f) that climate change, and actions to address climate change, may have adverse effects on the workforce and people’s livelihoods, and Fiji will take steps to avoid or mitigate any such loss of income or livelihoods, and promote a just transition of the workforce and the creation of decent work and quality jobs in accordance with Fiji’s development priorities;</p>
<p>South Africa: Climate Change Bill 9 of 2022, s 2 (d), 3(d).</p>	<p>CHAPTER 1</p> <p>INTERPRETATION, OBJECTS AND APPLICATION</p> <p>Definitions</p>

	<p>1. In this Act, unless the context indicates otherwise</p> <p>“just transition” means a shift towards a low-carbon, climate-resilient economy and society and ecologically sustainable economies and societies which contribute toward the creation of decent work for all, social inclusion and the eradication of poverty;</p> <p>Objects of Act</p> <p>2. The objects of this Act are to—</p> <p>(d) to ensure a just transition towards a low carbon economy and society considering national circumstances;</p> <p>Principles</p> <p>3. The interpretation and application of this Act must be guided by—</p> <p>(d) a contribution to a just transition towards low-carbon, climate-resilient and ecologically sustainable economies and societies which contribute to the creation of decent work for all, social inclusion and the eradication of poverty;</p> <p>(f) the need for decision-making to consider the special needs and circumstance of localities and people that are particularly vulnerable to the adverse effects of climate change, including vulnerable workers and groups such as women, especially poor and rural women, children, especially infants and child-headed families, the aged, the poor, the sick and the physically challenged;</p> <p>CHAPTER 2</p> <p>POLICY ALIGNMENT AND INSTITUTIONAL ARRANGEMENTS</p> <p>Presidential Climate Commission</p> <p>10. (1) The President may establish a Presidential Climate Commission and appoint not more than 30 members comprising representatives of government, organised labour, civil society and business to advise on the Republic’s climate change response, the mitigation of climate change impacts and adaptation to the effects of climate change towards the attainment of the just transition to a low-carbon and climate-resilient economy and society.</p>
<p>Spain: Ley 7/2021, de 20 de mayo, de cambio climático y transición energética, art 27–29;</p>	<p>TÍTULO VI</p> <p>Medidas de transición justa</p> <p>Artículo 27. Estrategia de Transición Justa.</p> <p>1. La Estrategia de Transición Justa constituye el instrumento de ámbito estatal dirigido a la optimización de las oportunidades en la actividad y el empleo de la transición hacia una economía baja en emisiones de gases de efecto invernadero y a la identificación y adopción de medidas que garanticen un tratamiento equitativo y solidario a las personas trabajadoras y territorios en dicha transición. El Gobierno aprobará, cada cinco años, mediante Acuerdo de Consejo de Ministros, Estrategias de</p>

	<p>Transición Justa, a propuesta conjunta de los Ministros para la Transición Ecológica y el Reto Demográfico de Trabajo y Economía Social; de Industria, Comercio y Turismo; de Agricultura, Pesca y Alimentación; de Transportes, Movilidad y Agenda Urbana; y de Ciencia e Innovación, con la participación de las Comunidades Autónomas y a los agentes sociales.</p> <p>2. La Estrategia de Transición Justa incluirá los siguientes contenidos:</p> <p>a) Identificación de colectivos, sectores, empresas y territorios potencialmente vulnerables al proceso de transición a una economía baja en emisiones de carbono.</p> <p>b) Análisis de las oportunidades de creación de actividad económica y empleo vinculadas a la transición energética.</p> <p>c) Políticas industriales, agrarias y forestales, de investigación y desarrollo, de innovación, de promoción de actividad económica y de empleo y formación ocupacional para la transición justa.</p> <p>d) Instrumentos para el seguimiento del mercado de trabajo en el marco de la transición energética mediante la participación de los agentes sociales, así como en las mesas de diálogo social.</p> <p>e) El marco de elaboración de los convenios de Transición Justa.</p> <p>Artículo 28. Convenios de transición justa.</p> <p>1. En el marco de la Estrategia de Transición Justa se suscribirán convenios de transición justa con el objeto de fomentar la actividad económica y su modernización, así como la empleabilidad de trabajadores vulnerables y colectivos en riesgo de exclusión en la transición hacia una economía baja en emisiones de carbono, en particular, en casos de cierre o reconversión de instalaciones.</p> <p>2. Los convenios de transición justa, en los que las Comunidades Autónomas participarán de acuerdo con el ámbito de sus competencias, se suscribirán entre el Ministerio para la Transición Ecológica y el Reto Demográfico, previo informe del Ministerio de Trabajo y Economía Social, del Ministerio de Inclusión, Seguridad Social y Migraciones y del Ministerio de Industria, Turismo y Comercio, y otras Administraciones Públicas, en particular, Entidades Locales de áreas geográficas vulnerables a la transición hacia una economía baja en carbono. Asimismo, en estos convenios podrán participar empresas, organizaciones de los sectores empresariales, organizaciones sindicales, universidades, centros educativos, asociaciones y organizaciones ambientales no gubernamentales y demás entidades interesadas o afectadas.</p> <p>3. Los convenios de transición justa incluirán:</p> <p>a) Una evaluación del estado de vulnerabilidad del área geográfica o colectivo afectado.</p>
<p>Portugal: Lei n.º 98/2021 de 31 de dezembro, LEI DE</p>	<p>SECÇÃO IX Economia verde e transição justa</p>

<p>BASES DO CLIMA, art 69;</p>	<p>Artigo 67.º Princípios de economia verde</p> <p>As políticas económicas e sociais estão subordinadas aos seguintes princípios em matéria de equilíbrio climático:</p> <p>a) Definição de políticas energéticas e climáticas centradas nos cidadãos e no seu bem-estar;</p> <p>b) Criação e fruição de um conceito de prosperidade partilhada e sustentável;</p> <p>c) Promoção da equidade entre gerações, assegurando, dentro de cada geração, uma economia inclusiva e equitativa;</p> <p>d) Promoção do crescimento económico dentro dos limites do planeta, reconhecendo o valor funcional, cultural e ecológico da natureza e investindo no mesmo;</p> <p>e) Promoção da sustentabilidade na produção e no consumo e de uma economia circular;</p> <p>f) Alinhamento dos preços líquidos de subsídios, impostos e outros incentivos com os custos reais da produção e consumo dos bens e serviços;</p> <p>g) Garantia da justiça social da transição climática, apoiando a requalificação de trabalhadores e a reestruturação económica e social de regiões afetadas; e</p> <p>h) Perspetiva de longo prazo na prossecução das políticas económicas e sociais.</p> <p>Artigo 68.º Estratégia industrial verde</p> <p>1 - O Governo elabora e apresenta na Assembleia da República, até 24 meses após a entrada em vigor da presente lei, a estratégia industrial verde.</p> <p>2 - A estratégia industrial verde visa proporcionar um enquadramento estratégico que apoie as empresas no processo de transição climática do setor industrial e no cumprimento dos objetivos fixados na presente lei, reforçando a sua competitividade sustentável.</p> <p>3 - O Governo, antes de apresentar a proposta de estratégia industrial verde, consulta o CAC e toma em consideração o seu parecer, sendo este publicado em simultâneo com a apresentação daquela na Assembleia da República.</p> <p>4 - O CAC emite parecer sobre a estratégia industrial verde no prazo de 20 dias após ser consultado.</p> <p>5 - O Governo submete a consulta pública um projeto de estratégia industrial verde, acompanhado pelo respetivo parecer do CAC, devendo assegurar a audição das seguintes entidades:</p> <p>a) Regiões autónomas;</p> <p>b) Comissões de coordenação e desenvolvimento regional;</p> <p>c) Associação Nacional de Municípios Portugueses;</p> <p>d) Associação Nacional de Freguesias;</p> <p>e) Conselho Económico e Social;</p> <p>f) Conselho Nacional do Ambiente e Desenvolvimento Sustentável;</p> <p>g) Confederação Empresarial de Portugal.</p> <p>6 - O Governo articula a agenda de inovação e desenvolvimento no combate às alterações climáticas com a estratégia industrial verde.</p> <p>Artigo 69.º Transição justa</p>
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	<p>O Estado promove uma transição justa para uma economia neutra em carbono, designadamente através:</p> <ul style="list-style-type: none"> a) Da criação de uma agenda de crescimento verde para a sociedade portuguesa e de empregos para o clima; b) Do combate à pobreza energética; c) Do apoio à adaptação do tecido económico existente; d) Da distribuição progressiva dos custos e benefícios da transição climática; e) Da requalificação dos trabalhadores cujos empregos sejam eliminados ou significativamente transformados pela descarbonização; f) Da redução dos impactes das alterações climáticas na saúde pública, na biodiversidade e nos ecossistemas; g) Da recuperação dos territórios, atividades, equipamentos e infraestruturas afetados pelas alterações climáticas; h) Da promoção da mobilidade sustentável, sem prejuízo da salvaguarda da coesão territorial e social; i) Da proteção das pessoas e das regiões mais vulneráveis aos impactes das alterações climáticas; j) Do apoio, em conjunto com os respetivos tecidos empresariais, a projetos de descarbonização de indústrias com elevados níveis de emissão de carbono.
<p>Colombia: L. 2169, diciembre 22, 2021 Diario Oficial No. 51.896 de 2021, art 3 para 2</p>	<p>Artículo 3°. Pilares de la transición a la carbono neutralidad, la resiliencia climática y el desarrollo bajo en carbono. La transición hacia la carbono neutralidad, la resiliencia climática y el desarrollo bajo en carbono se sustenta en los siguientes pilares:</p> <ol style="list-style-type: none"> 1. La necesidad de alinear las acciones que se adopten en materia de cambio climático, con las que se establezcan en materia de seguridad alimentaria, salud y erradicación de la pobreza. 2. La transición justa de la fuerza laboral que contribuya con la transformación de la economía hacia mecanismos de producción sostenibles, y que apunte a la reconversión de empleos verdes que otorguen calidad de vida e inclusión social. 3. La adopción de medidas para la protección del entorno ambiental y socioeconómico de las generaciones presentes y futuras. 4. La implementación de acciones de naturaleza positiva, consistentes en detener y revertir la pérdida de biodiversidad y el deterioro ambiental. 5. La corresponsabilidad de las entidades públicas del orden nacional, departamental, municipal y distrital, así como de las personas naturales y jurídicas, públicas, privadas y mixtas en la definición e implementación de metas y medidas en materia de carbono neutralidad, desarrollo bajo en carbono y resiliencia climática. 6. El reconocimiento de las características diferenciales de los sectores económicos y de los territorios en la optimización de sus aportes al cumplimiento de las metas nacionales en materia de carbono neutralidad, desarrollo bajo en carbono y resiliencia climática.
<p>South Korea: Framework Act On Carbon Neutrality And Green Growth For Coping With Climate</p>	<p>CHAPTER i GENERAL PROVISIONS</p> <p>Article 2 Definitions</p>

<p>Crisis, Sep. 24, 2021, art 3 para 4,</p>	<p>13. The term "just transition" means a policy direction-setting for protecting workers, farmers, small and medium entrepreneurs, etc. in regions or industries that could suffer direct or indirect damage in the course of transition to a carbon neutral society, to make the society share the burden caused in the transition process and minimize damage to the vulnerable social groups</p> <p>Article 3</p> <p>The transition to a carbon neutral society and green growth shall be promoted based on the following basic principles:</p> <p>4. It shall promote climate justice to ensure proportionate distribution of the responsibility for and benefits from climate crisis throughout the society, with the aim of overcoming the climate crisis and social disparity at once, thereby realizing a just transition to protect the vulnerable social groups, sectors, and regions susceptible to damage that may occur in the course of transition to a carbon neutral society;</p> <p>CHAPTER IV</p> <p>2050 CARBON NEUTRALITY AND GREEN GROWTH COMMITTEE</p> <p>Article 15 (Establishment of 2050 Carbon Neutrality and Green Growth Committee</p> <p>[50-100 members..]</p> <p>5. When commissioning committee members pursuant to paragraph (4) 2, the President shall receive recommendations for candidates from, and hear the opinion of, various social groups including youths, women, workers, farmers and fishermen, small and medium entrepreneurs, and civic groups, to ensure that the representativeness of each social group is reflected</p> <p>CHAPTER X ESTABLISHMENT AND OPERATION OF CLIMATE RESPONSE FUND</p> <p>Article 69 (Establishment of Climate Response Fund)</p> <p>Article 70 (Purposes of Fund</p> <p>The Fund shall be used for any of the following purposes:</p> <p>3. Support for conversion and creation of jobs in the regions with worsening social and economic conditions, or for workers and social groups suffering, in the course of coping with climate crisis;</p>
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ANNEX 2

LINKS BETWEEN JUST TRANSITION POLICY AREAS LISTED IN THE ILO GUIDELINES AND INTERNATIONAL LABOUR STANDARDS

Annex I to the ILO Guidelines lists a number of ILO standards and instruments that are of particular relevance to a just transition policy framework, including all ILO fundamental and governance Conventions, and a number of technical (thematic) Conventions, related to e.g. social protection, human resources development, air pollution, labour administration, and several Recommendations. The Annex is an integral part of the instrument and should be duly taken into consideration during planning, implementation and monitoring of each of the 9 policy areas of the ILO Guidelines. Each of these policy areas should be addressed through ILS.

Source: ILO (2021)¹⁵⁶

<p>Macroeconomic and growth policies</p>	<p>The ILO advocates for employment-led economic growth, respecting decent work and ILS. Central to this issue are:</p> <ul style="list-style-type: none"> - Employment Policy Convention, 1964 (No. 122) - calls for a coordinated approach to economic and social policies to promote full, productive and freely chosen employment - Employment Policy Recommendation, 1964 (No. 122) - Employment Policy Recommendation (Supplementary Provisions), 1984 (No. 169) - Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) - Employment Promotion and Protection against Unemployment Convention Recommendation (No. 176). <p>These ILS require or encourage workers' organizations' involvement in the elaboration or adoption of such policies. As such, workers can demand that a just transition framework is incorporated into macroeconomic policies, as recommended by the ILO Guidelines.</p>
<p>Industrial and sectoral policies</p>	<p>Many ILS relevant to this policy area are also relevant to that on occupational safety and health (OSH). These concern, for example:</p> <p>agriculture</p> <ul style="list-style-type: none"> - Safety and Health in Agriculture Convention, 2001 (No. 184) - Safety and Health in Agriculture Convention, 2001 Recommendation (No. 192) <p>chemicals and waste management</p> <ul style="list-style-type: none"> - Chemicals Convention, 1990 (No. 170) - Chemicals Recommendation, 1990 (No. 177) - Prevention of Major Industrial Accidents Convention, 1993 (No. 174) <p>Of note, Convention No. 174 which puts the protection of the environment on an equal footing with that of workers and the public when it calls on Member States to implement a policy concerning the</p>

¹⁵⁶ ILO (2021) User's manual to the ILO's Guidelines for a just transition towards environmentally sustainable economies and societies for all, available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_826060.pdf

	<p>protection of workers, the public, and the environment against the risk of major accidents. The Committee on the Application of Conventions and Recommendations (CEACR) has recalled that the focus of Convention No. 174 “is not only on the management of accidents in such installations, nor on environmental law, but on the management of major industrial accidents to which not only workers, but also the environment and the public are exposed”.¹⁵⁷</p>
Enterprise policies	<p>Paragraph 21 of the ILO Guidelines states that “Governments in consultation with social partners should:</p> <p>... (d) develop national policies and plans for mitigation, adaptation to climate change and disaster preparedness closely with business associations, workers’ organizations and other stakeholders to strengthen resilience to the impacts of climate change and promote disaster preparedness information and insurance.”</p> <ul style="list-style-type: none"> - Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) - deals explicitly with enterprise policies in context of preparedness and resilience. It notably advocates that governments should develop and promote all the measures related to response to crisis situations in consultation with employers’ and workers’ organizations. - Labour Inspection Convention, 1947 (No. 81) – provides more general to this policy area by helping to ensure that labour rights are enforced.
Skills development	<p>Retraining workers and upgrading their skills is essential to ensure just transitions.</p> <p>Many ILS refer to skills development, including:</p> <ul style="list-style-type: none"> - Human Resources Development Convention, 1975 (No. 142) - Employment Policy Recommendation (Supplementary Provisions), 1984 (No. 169) - Migration for Employment Convention (Revised), 1949 (No. 97) - Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143) - Occupational Safety and Health Convention, 1981 (No.155) and its Protocol, 2002 (No. 155) - Transition from the Formal to the Informal Economy Recommendation, 2015 (No. 204) - Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) <p>Additional relevant ILS include:</p>

¹⁵⁷ See Observation (CEACR) - adopted 2013, published 103rd ILC session (2014) *Prevention of Major Industrial Accidents Convention, 1993 (No. 174) - Colombia (Ratification: 1997)*, available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3146249. See also World Employment Social Outlook: Greening with Jobs, p. 78, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_628654.pdf.

	<ul style="list-style-type: none"> - Paid Educational Leave Convention, 1974 (No. 140) - which is concerned specifically with the granting of paid educational leave for the purpose of training at any level, general, social, and civic education, and trade union education. - Human Resources Development Recommendation, 2004 (No. 195) - which clearly states in Article 1 that “Members should, based on social dialogue, formulate, apply and review national human resources development, education, training and lifelong learning policies which are consistent with economic, fiscal and social policies”. It mentions the need to “achieve sustainable economic and social development”; just transition fits into this goal.
Occupational safety and health	<p>Many general ILS fall under this policy area, including:</p> <ul style="list-style-type: none"> - Convention No. 155 and its Protocol No. 155 (OSH) - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) - Occupational Health Services Recommendation, 1985 (No. 171); <p>and also more targeted ILS such as:</p> <ul style="list-style-type: none"> - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) - Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156) - Asbestos Convention, 1986 (No.162) - Asbestos Recommendation, 1986 (No. 172) - Prevention of Major Industrial Accidents Convention, 1993 (No. 174) - Safety and Health in Mines Convention, 1995 (No. 176) - Safety and Health in Mines Recommendation, 1995 (No. 183) - Safety and Health in Agriculture Convention, 2001 (No. 184) - Safety and Health in Agriculture Recommendation (No. 192) - Maritime Labour Convention 2006 (MLC, 2006) - protects the health and safety of maritime workers, therefore preventing accidents that can be harmful to the environment. The Convention is relevant in context of addressing climate change impact on maritime ecosystems and maritime transport. <p>Some ILS deal with stress at work induced by climate change or working conditions more generally, others with the elimination or reduction of production processes that could damage the environment, respect for ecological thresholds or waste minimization. Of specific relevance are, for example:</p> <ul style="list-style-type: none"> - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) - which requests concrete action against air pollution: each Member State needs to have legal measures for the prevention and control of, and protection against, occupational hazards due to air pollution, noise, and vibration (article 4(1)). - Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977, No. 156 - is the first international labour standard to explicitly link the working and general environment when it states that when prescribing measures, “the competent

	<p>authority should take account of the relationship between the protection of the working environment and the protection of the general environment” (para. 15).</p> <ul style="list-style-type: none"> - Chemicals Convention, 1990 (No. 170) and Recommendation (No. 177) - which cover all branches of economic activity in which chemicals are used. Convention No. 170 provides for a comprehensive national framework for the safe use of chemicals at work, including the formulation, implementation, and periodic review of a coherent policy (Article 4). The Convention notes in its preamble that the protection of workers from the harmful effects of chemicals also enhances the protection of the general public and the environment. Article 14 deals directly with the disposal of chemicals and its impact on the environment.
Social protection	<p>Universal social protection, as understood in the Social Security (Minimum Standards) Convention, 1952 (No.102) and the Social Protection Floors Recommendation, 2012 (No. 202), refers to actions and measures to progressively build and maintain nationally appropriate social protection systems that are comprehensive, sustainably financed and provide adequate protection. It is crucial to have universal social protection to ensure just transitions that leave no one behind. The Resolution concerning the second recurrent discussion on social protection (social security), adopted at the International Labour Conference in June 2021, highlights the provision of universal access to social protection systems to facilitate a just transition to more environmentally sustainable economies and societies (ILO 2021c). Many more specific ILS on social protection are listed here.</p>
Active labour market policies	<p>The Convention most relevant to active labour market policies is certainly the governance Convention No. 122. Concerned with stimulating economic growth and development, raising levels of living, meeting workforce requirements and overcoming unemployment and underemployment, convention No. 122 requires governments “to declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment” (art. 1(1)). This policy is essential as an overarching tool that can spell out a vision to fully engage with just transitions.</p> <p>The Human Resources Development Convention, 1975 (No. 142) is particularly relevant to this policy area, as training is part of ALMP, through, in particular, public employment services. Convention No. 142 requires governments “to adopt and develop comprehensive and co-ordinated policies and programmes of vocational guidance and vocational training, (...) in particular through public employment services” (art 1(1)).</p>
Upholding labour rights and standards in the transition	<p>“Rights” are the eighth policy area of the ILO Guidelines. Thus, rights and ILS are both a cross-cutting dimension to each of the policy areas in the ILO Guidelines and also represent a policy area in their own right.</p> <p>New ILS have been adopted since the ILO Guidelines were adopted in 2015. This includes the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205). The Recommendation (i) deals directly with crisis situations resulting from disasters that can be caused by climate change; and (ii) it advocates for response and recovery measures that take into account just transitions – it actually mentions the</p>

	<p>“need for a just transition towards an environmentally sustainable economy” no less than three times, including in its guiding principles.</p> <p>Mention needs to be made of the Indigenous and Tribal Peoples Convention, 1989 (No. 169). It is of interest for two reasons: it contains a number of explicit references to the environment and it provides a framework to ensure indigenous peoples’ consultation and participation in decision-making. It is the only international treaty specifically addressing indigenous peoples’ rights, which are highly relevant for local, national and international efforts to sustain the traditional knowledge of indigenous communities, and for climate action more broadly.</p> <p>Furthermore, ILS related to migrant workers are also very relevant when we discuss climate change and just transitions, as migrants may have left their country for reasons related directly or indirectly to climate change - see Conventions Nos. 97 and 143 already mentioned, as well as the Migrant Workers Recommendation, 1975 (No. 151).</p>
Social dialogue and tripartism	<p>The final policy area is related to social dialogue and tripartism. The application of the rights provided in Conventions Nos. 87 and 98 ensure, through social dialogue, public participation and consultation which are crucial to sustainable development. Without these, societies cannot be inclusive, equitable, or democratic.</p> <p>Other relevant ILS include the Rural Workers’ Organisations Convention, 1975 (No. 141) and Recommendation (No.149) on the organization of rural and agricultural workers. These also indirectly benefit migrant workers, who are often highly involved in agriculture.</p>