

# Renewing human rights

## Inequality, climate and technology at the heart of the human rights agenda

### Summary

- Both as a system of law and as a moral discourse, human rights have much to offer in tackling the compounding global challenges of our time – particularly economic inequality, the climate and biodiversity crises, and technological change.
- These challenges demand bold and creative interdisciplinary responses. Drawing on the unique strengths of the human rights system to complement other multilateral frameworks, including those that rely on voluntary action by states, will be critical to ensuring citizens can hold governments and corporations to account.
- Addressing economic inequality should be a global human rights priority. This is a complex and multifaceted challenge. The contribution of human rights should include emphasizing human outcomes of economic policy as well as strengthening regulation.
- Climate change is arguably the most consequential human rights crisis of all time. While human rights are already a useful basis for climate litigation, climate change and biodiversity loss are likely to shift the entire human rights agenda of the future.
- Human rights also provide a framework to navigate the complex opportunities and threats created by emerging technologies, helping governments and societies to focus on protecting human dignity and autonomy.
- Civil and political rights are under serious threat from rising authoritarianism. They are also fundamental to achieving progress in addressing the deep challenges discussed in this briefing paper. Holding open the space for meaningful civic participation underpins everything else, and must remain a human rights priority.

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## Introduction

The turbulence of our present era calls for tools and mechanisms that can strengthen international cooperation and address the profound challenges facing the world. The 75th anniversary of the Universal Declaration of Human Rights (UDHR), in December 2023, is a landmark that offers an opportunity to reflect on the past and look ahead to the future contribution that human rights could make in this regard. It should be an opportunity for renewal, including considering how to apply the resources offered by the human rights system to the biggest global challenges.

Much progress has been made through the norms, laws, mechanisms and institutions that make up the international human rights system. Through the elaboration of universal standards as part of the wider multilateral system, human rights have provided a non-anarchic way to negotiate the relationship between people and power.

The human rights framework has grown and evolved throughout a period of great change. But we now live in a different world from the one in which it came into being. This is a time of compounding crises that are global in nature, including rising economic inequality and debt distress, climate change and biodiversity loss, and threats to the conditions that enable democracy – all of which are unfolding in the context of renewed great power competition and rivalry. At the same time, we are experiencing an unprecedented encroachment of technology in our lives.

The context raises questions about whether the human rights framework and system as it has evolved since 1948 still holds answers to the challenges we face today. On the one hand, there is a narrative of decline – that the human rights system is tired, and its biggest achievements lie in the past. For some human rights practitioners, significant reversals in areas such as women’s rights, freedoms of expression and assembly, and refugee rights challenge their belief in prospects for progress. This may tempt them to adopt a defensive posture, in an effort to prevent further backsliding.

On the other hand, plenty of hope is still invested in the human rights system, which remains deeply embedded in the UN and wider multilateral system as well as in domestic constitutions and laws. There is something precious in the way that human rights bring together a universal language of moral norms with state obligations and mechanisms to protect these rights. The scholar Kathryn Sikkink has articulated a potent defence of human rights based on evidence of impact and deconstructing the assumptions on which narratives of decline are built.<sup>1</sup>

At this significant anniversary, it is not possible to construct one single coherent global story about the current state of human rights.<sup>2</sup> There is room both for concern and for optimism. This briefing paper argues that there is scope for renewal,

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<sup>1</sup> Sikkink, K. (2017), *Evidence for Hope: Making Human Rights Work in the 21st Century*, Princeton, NJ: Princeton University Press.

<sup>2</sup> Author interview, 17 January 2023. As Steven Jensen memorably expresses it, we see ‘a cabinet full of human rights glasses; some half full, some half empty, some drained dry and some filled to the top; for some the contents have fizzled out and, for others, they are boiling; and then there are those glasses smashed beyond repair’.

Jensen, S. L. B. (2016), *The Making of International Human Rights: The 1960s, Decolonization and the Reconstruction of Global Values*, Cambridge: Cambridge University Press, p. 281.

too. In particular, there is a crucial role for human rights to play in tackling the grand global challenges of our time and how they manifest in the lives of people around the world.

The paper draws on material from 45 interviews with human rights practitioners across different fields, as well as five Chatham House roundtables<sup>3</sup> and a review of relevant literature. It has two main sections: the first addresses questions of methodology – how the human rights system should seek to achieve change; the second proposes a three-part agenda for how human rights should be applied to some of the most consequential global challenges now facing societies around the world. There is no suggestion that this should be a comprehensive blueprint for human rights, since there are many other priorities besides, but it should be at the heart of an agenda for the renewal of human rights.

## The how: elements of renewal

There is little serious prospect that the human rights system will become obsolete. It is deeply embedded in international law, in the institutions of the multilateral system, and in constitutions and laws in most countries around the world.<sup>4</sup> But for this system to be effective, there are important questions to address concerning what can be reasonably expected of it, and by what methods it can achieve positive change.

### Embracing different methodologies

Widely divergent conceptions of human rights give rise to different prescriptions about how to use them effectively, and what renewal might look like. However, the possibility of using human rights in different ways should be considered a source of strength.

From one perspective, human rights comprise a system of laws built on international agreements and customs between states. Achieving human rights progress is therefore understood as a matter of developing international law and then pursuing accountability through international mechanisms and domestic courts. In this model, the ongoing challenge is to elaborate better norms and standards, ensure they are implemented in law, and strengthen mechanisms for recourse. Legal mechanisms are the backbone of the human rights system, and (in theory) provide a way to achieve positive change by resorting to established principles and rules. Without them, there would be a dependency on fleeting and unpredictable political windows of opportunity.

From another perspective, however, human rights constitute a moral narrative that sets out a sweeping vision of justice and peace. Human rights are meaningful in that they can represent people's lived experiences of injustice and conflict, articulate a popular aspiration for change, and galvanize collective action to achieve this. One interviewee went as far as to argue that the legal paradigm of human rights

<sup>3</sup> All interviews were conducted on the understanding of anonymity, except where specified; the roundtable discussions took place under the Chatham House Rule.

<sup>4</sup> As one interviewee put it, 'Human rights are not disappearing as an organizing concept between people and power.' Author interview, 19 December 2022.

is based on a false promise that states will protect people from each other, which simply does not happen in practice. Instead, in their view, progress depends entirely on solidarity among peoples to force political action. Human rights offer a ‘powerful idiom’ to generate solidarity.<sup>5</sup> For proponents of this view, the legal complexity of human rights threatens to obscure their moral clarity and urgency.<sup>6</sup>

However, these different roles for human rights are not antithetical, and they can exist in creative tension. The credibility of human rights norms, laws and institutions rests on public consent for human rights as an expression of values and ideals. Meanwhile, the practical usefulness of the human rights discourse consists to some considerable extent in the universal norms, laws and mechanisms to which it has recourse.

## **The credibility of human rights norms, laws and institutions rests on public consent for human rights as an expression of values and ideals.**

Another way of framing the different roles of human rights could be that they provide both a positive vision and a means of restraint.<sup>7</sup> As a way of expressing vision, both the moral idealism of human rights and the well-established and elaborated norms of the human rights system offer a vocabulary and a framework according to which aspirations for a more just world can be expressed with precision.<sup>8</sup> But human rights mechanisms also provide a means of restraint for unjust and harmful conduct. The incorporation of human rights concepts in international and domestic law provides the potential for judicial redress in many jurisdictions.

### **Starting with solidarity and subsidiarity**

Despite the malaise surrounding human rights in some quarters, there remains a strong sense among many throughout the human rights community that the framework and system that has evolved over the last 75 years makes an important contribution to people’s struggles against power and serves as a check on state behaviour. However, to preserve this essential quality, human rights must not be defined and controlled by those with power, but rather understood as a way for those who are least powerful to secure justice.

Many interviewees expressed disquiet with the ‘elite capture’ of human rights and the sense of distance that often exists between human rights institutions – including UN treaty bodies, international or domestic courts, national human rights bodies and others – and the supposed beneficiaries of their work.<sup>9</sup> One interviewee reflected on how important human rights have been as an organizing concept for social movements, yet over time these rights have become attached

<sup>5</sup> Author interview, 17 January 2023.

<sup>6</sup> One interviewee expressed this in particularly stark terms: ‘Human rights are technical and boring and dry and can kill the passion or the instinctive understanding of an issue.’ Author interview, 14 November 2022.

<sup>7</sup> This is reflected also in the existence of both positive and negative human rights obligations under international law.

<sup>8</sup> One interviewee, reflecting on the 2019 protest movement in Hong Kong, suggested that human rights helped to sharpen the articulation of demands that were otherwise imprecise. Author interview, 15 September 2022.

There are countless other examples of where human rights can play a similar role.

<sup>9</sup> Chatham House roundtable on human rights regressions, 17 November 2022.

to particular institutions and mechanisms where this moral urgency has been diluted.<sup>10</sup> As another expressed it: ‘People are talking about rights in the slums; but the closer you get to power, the more this fades.’<sup>11</sup>

Against this background, the renewal of human rights must be based first on solidarity with people who experience human rights harms, and then on the principle of subsidiarity – so that those affected are able to participate in and influence processes that address their situation.<sup>12</sup>

### Seeking complementarity with other global frameworks

The human rights system is unique in many respects, including its permanent status and the extent to which it is embedded within norms, laws and institutions of the multilateral system. However, it does not hold a monopoly position as an international framework for achieving a more just world.

The UN secretary-general’s 2021 report *Our Common Agenda* portrays human rights as one among several ‘blueprints for a better world’ alongside the Sustainable Development Goals (SDGs) and the Paris Agreement on climate change, that rely mainly on voluntary action by states.<sup>13</sup> This somewhat overlooks the grounding of human rights in international law, but there is now a sense in which the human rights framework is perceived to coexist among other global frameworks.

However, rather than interpreting this as the loss of a pre-eminent position for human rights, it could be seen to offer an opportunity to leverage the unique strengths of the human rights system to elucidate and complement other global frameworks. While not without its challenges, one important way of doing this would be to provide avenues of legal recourse in areas that otherwise rely on voluntary commitments and action by states by framing specific goals in human rights terms. To conceive of human rights tools as a way of achieving the aspirations set out in other global frameworks hedges against the shortcomings of such voluntarism. This in turn could be an important source of renewal for human rights.

### Rethinking the anthropocentrism of rights

In years to come, it is possible that the idea of human rights may founder less because of the ‘rights’ and more because of the ‘human’. The anthropocentrism of human rights is becoming more difficult to justify as we become more aware of our complex interrelationship both with the natural world and with technology.

The climate and biodiversity crises are forcing an urgent reckoning with human destructiveness and the fragility of the ecosystems on which societies depend. The burgeoning ‘rights of nature’ movement has begun to widen the scope of rights beyond humans alone, acknowledging the interdependence of all life and natural resources on the planet.<sup>14</sup>

<sup>10</sup> Author interview, 25 January 2023.

<sup>11</sup> Chatham House roundtable on human rights and inequality, 29 June 2022.

<sup>12</sup> Related to this, one interviewee critiqued the elitist assumptions captured in the frequently used concept of ‘empowerment’, which is based on the idea that power must be delegated. Author interview, 4 April 2023.

<sup>13</sup> United Nations (2021), *Our Common Agenda: Report of the Secretary-General*, New York: United Nations, [https://www.un.org/en/content/common-agenda-report/assets/pdf/Common\\_Agenda\\_Report\\_English.pdf](https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf).

<sup>14</sup> See, for example, Rodríguez-Garavito, C. (2022), ‘More than human rights: What can we learn from trees, animals, and fungi?’, *OpenGlobalRights*, 28 October 2022, <https://www.openglobalrights.org/more-than-human-rights-trees-animals-fungi>.

Meanwhile, advances in technology are blurring the distinction between humans and machines by enabling computers to decode brain activity with growing sophistication. While there are many positive potential applications of such technology, there is an emerging focus within the human rights sector on how to meet this challenge to human autonomy. More broadly, if the very definition of a human becomes less self-evident in future, so too does the question of how we should attribute rights.<sup>15</sup>

A rigid approach to human rights based on the special and unique status of humans may prove unsustainable in future. We may instead need to locate human rights within a wider paradigm of human flourishing in healthy balance with our natural and technological environment.

### **Developing an ambitious agenda on the grand global challenges**

In the recent past, the human rights agenda has been focused to a large extent on human protection, including in the context of conflict and state abuses of power. This remains necessary and important. However, the legitimacy of the human rights system may now rest on its ability to tackle the biggest global challenges – some of which pose increasingly existential threats to the world as we know it.

The following section addresses three such challenges. They are all global in scope, and therefore require responses at a global level. As a universally accepted framework with strong tools and mechanisms, human rights should be considered as an asset in responding to each of these challenges.

## **The what: a renewed human right agenda**

As the world faces a set of grave challenges and risks, each of which compounds the others, the continued relevance of human rights will depend at least to some extent on their capacity to address these challenges. This is not to suggest that they capture the entirety of the human rights agenda around the world. However, these are challenges of such magnitude and importance that the human rights system needs to make its mark in addressing them.

### **Economic inequality**

In the 2020s, economic inequality has become an even more pressing global priority. Overseas development assistance (ODA) reached an all-time high of \$204 billion in 2022,<sup>16</sup> while billionaire wealth across the world increased significantly during the COVID-19 pandemic.<sup>17</sup> The pandemic demonstrated and accentuated inequalities

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<sup>15</sup> Author interview, 19 December 2022.

<sup>16</sup> Organisation for Economic Co-operation and Development (2023), 'Overseas Development Assistance: Official Development Assistance (ODA) in 2022, by members of the Development Assistance Committee (preliminary data)', <https://www.oecd.org/dac/financing-sustainable-development/development-finance-standards/official-development-assistance.htm>.

<sup>17</sup> Kaplan, J. and Hoff, M. (2022), 'Billionaires saw their wealth grow by 62% during the pandemic, while workers' wages grew by 10%', 18 April 2022, Business Insider, <https://www.businessinsider.com/billionaires-wealth-grew-62-pandemic-while-workers-saw-10-raise-2022-4>.

between and within countries. The uneven experience of climate impacts around the world has given impetus to calls for reform of the international financial architecture to expand fiscal space for countries most at risk of climate harms.<sup>18</sup>

Economic and other forms of inequality are integrally related to other global challenges, including the themes addressed in this paper. In 2022, the Intergovernmental Panel on Climate Change (IPCC) made its strongest statement yet on the links between historical patterns of inequality and vulnerability to climate harms.<sup>19</sup> While technology holds the potential for positive advances, there is also a danger that it could significantly deepen inequalities by handing immense power to those who own and control the technology.

Economic inequality is not a new agenda for human rights. Many Global South countries, in particular, have viewed addressing economic inequalities as a central part of the human rights project from the beginning.<sup>20</sup> The history of economic, social and cultural rights has been complicated by persistent questions over how these rights are to be implemented, by whom, and drawing upon what resources<sup>21</sup> – as well as by their politicization in the context of the Cold War – but they have long been de-emphasized by countries in the Global North and by many international NGOs. This is evident most notably in the US's failure to ratify the International Covenant on Economic, Social and Cultural Rights.<sup>22</sup>

The effect of this has been to undermine wider acceptance of a holistic vision of human rights, and also to downplay the potential contribution of human rights in addressing economic inequality. As one interviewee emphasized, we need to see inequality as both a cause and a consequence of human rights violations.<sup>23</sup> The equality of status asserted in Article 1 of the UDHR is of limited value if the human rights system fails to pay attention to economic inequality and its consequences.

Although tackling economic inequality is a public policy challenge with many dimensions, so far the tools that already exist within the human rights system have not been deployed boldly enough. According to one interviewee, not only have many protagonists of economic rights been insufficiently ambitious, but over time they have lost confidence in human rights tools. This means they have neglected concepts such as the duty of international co-operation,<sup>24</sup> along with the principle that the state should take steps towards the progressive realization of economic

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<sup>18</sup> See, for example, the Bridgetown Initiative 2.0: Barbados Government Information Service (2023), 'Bridgetown Initiative 2.0 Highlights Six Key Action Areas', 27 April 2023, <https://gisbarbados.gov.bb/blog/bridgetown-initiative-2-0-highlights-six-key-action-areas>.

<sup>19</sup> Pörtner, H.-O. et al. (eds) for Intergovernmental Panel on Climate Change (2022), *Climate Change 2022: Impacts, Adaptation and Vulnerability*, Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, Cambridge and New York, Cambridge University Press. Cambridge University Press, Cambridge and New York, para. B.2, doi:10.1017/9781009325844.

<sup>20</sup> For example, the idea of a 'right to development' was advanced by African countries as a way to address Article 28 of the UDHR, which states: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.'

<sup>21</sup> Jensen, S. and Walton, C. (2022), 'Not 'Second-Generation Rights': Rethinking the History of Social Rights', in Jensen, S. and Walton, C. (eds) (2022), *Social Rights and the Politics of Obligation in History*, Cambridge: Cambridge University Press, pp. 13–16, <https://doi.org/10.1017/9781009008686.001>.

<sup>22</sup> For a much fuller treatment of this issue, see Griffiths, D. (2023), *Human rights diplomacy: Navigating an era of polarization*, Research Paper, London: Royal Institute of International Affairs, <https://doi.org/10.55317/9781784135614>.

<sup>23</sup> Chatham House roundtable on human rights and inequality, 29 June 2022.

<sup>24</sup> As per Article 13 of the UN Charter: <https://www.un.org/en/about-us/un-charter/full-text>.

and social rights to the ‘maximum of its available resources’,<sup>25</sup> which calls for continually raising the bar of expectations as wealth increases. These are politically contentious ideas.<sup>26</sup> Yet caution in pursuing them has come at a price to the credibility of the human rights system. As the same interviewee put it: ‘Realism and pragmatism have become a handicap because if we can’t engage with the big structural questions, then other frameworks will take over.’<sup>27</sup>

The question remains as to how the human rights system could pivot towards addressing economic inequality as a higher priority. There are at least four ways this could happen.

First, there needs to be more effort from both sides to develop a serious engagement between the fields of human rights and economic policy. Many interviewees underscored that human rights actors should become much more engaged with institutions where economic policy is decided. In doing so, they could bring crucial perspectives, including intersectional analysis – that is, understanding how multiple systems of oppression or inequality based on identity intersect with each other in the experience of people who hold those identities.<sup>28</sup> Correspondingly, international financial institutions such as the World Bank and International Monetary Fund (IMF) should acknowledge that they wield significant influence on matters of human rights, and that their decisions require a human rights analysis.

## **Wealthy countries in the Global North should pay considerably more attention to the long-standing demands from many less wealthy countries, including those in the G77, to address the inequality between states through the human rights system.**

Second, within the multilateral system, wealthy countries in the Global North should pay considerably more attention to the long-standing demands from many less wealthy countries, including those in the Group of 77 (G77), to address the inequality between states through the human rights system.<sup>29</sup> In an increasingly polarized environment, the space for a non-politicized discussion around this has diminished. Yet this is an agenda that matters deeply to many countries in the Global South, and it deserves universal engagement.

Third, clear business regulation grounded in human rights is essential to safeguard against multiple forms of exploitation that accentuate inequality. There is an opportunity to build on soft law within the human rights system – i.e. non-binding

<sup>25</sup> As per Article 2(1) of the International Covenant on Economic, Social and Cultural Rights: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

<sup>26</sup> It is worth noting that although human rights are universal, international human rights law affords states flexibility to interpret and apply them in ways that take account of the local context and specific country needs.

<sup>27</sup> Author interview, 6 October 2022.

<sup>28</sup> Categories of discrimination could include, among others, gender, race, sexual orientation, disability, class or caste. The specific term intersectionality was coined and subsequently popularized in the field of law by Kimberlé Crenshaw. Crenshaw, K. (1991), ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’, *Stanford Law Review*, 43(6), pp. 1241–99.

<sup>29</sup> Griffiths (2023), *Human rights diplomacy*, p. 10.



instruments such as principles, codes of conduct or declarations<sup>30</sup> – that focus on areas from workers’ rights in supply chains to the disposal of industrial waste. The UN Guiding Principles on Business and Human Rights (UNGPs), introduced in 2011, have already proven influential. Efforts towards a binding treaty on business and human rights should build on this foundation,<sup>31</sup> as should the proposed EU Corporate Sustainability Due Diligence Directive.<sup>32</sup>

Fourth, in a time of widespread economic challenges, inflationary pressures, debt traps, inter-generational inequality, and heightened awareness about the environmental costs of the economic system, there may now be a more general opening to rethink prevailing economic orthodoxy. Transformative ideas about economic policy – including across areas such as social security, taxation and debt – could find fertile ground in this context. There could thus be an important role for human rights in this broader endeavour; as one interviewee noted, human rights can describe what economic policy ought to deliver in terms of human outcomes.<sup>33</sup> Approaches being explored within the human rights field vary from proposing new economic models that prioritize human rights outcomes<sup>34</sup> to creating new indicators centred on human rights,<sup>35</sup> or improving how states’ fulfilment of economic and social rights is measured.<sup>36</sup>

## Climate change and biodiversity loss

It is now widely accepted that the climate crisis is also a human rights crisis, perhaps the most consequential of all time. The closely related biodiversity crisis is only beginning to receive the same level of attention.

The immense impacts of climate change on human rights should be considered on two levels. The first is the harm that it has already caused to a wide range of rights, including the rights to life, self-determination, development, health, food, water and sanitation, adequate housing and cultural rights. These impacts disproportionately affect the people and communities that have done the least to cause the crisis. The second level is to consider how the far-reaching and unforeseen implications of climate change are likely to affect the entire arena in which the enjoyment of all human rights plays out. Direct and indirect threats – among them risks to the viability of whole countries, the destruction of cultural heritage, mass migration and political backlashes against massive climate disruption – will have further complex effects. The long-term human rights consequences of climate change are impossible to predict beyond a certain point.

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<sup>30</sup> Guruparan, K. and Zerk, J. (2021), ‘Influence of soft law grows in international governance’, Chatham House Expert Comment, 17 June 2021, <https://www.chathamhouse.org/2021/06/influence-soft-law-grows-international-governance>.

<sup>31</sup> United Nations General Assembly, Human Rights Council (2014), ‘Elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights’, A/HRC/RES 26/9, 14 July 2014.

<sup>32</sup> European Commission (2022), ‘Corporate sustainability due diligence’, [https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence\\_en](https://commission.europa.eu/business-economy-euro/doing-business-eu/corporate-sustainability-due-diligence_en). See also Moynihan, H. (2023), *Investors and the ESG blind spot: Upholding civic freedoms as part of geopolitical corporate responsibility*, Research Paper, London: Royal Institute of International Affairs, p. 10, <https://doi.org/10.55317/9781784135775>.

<sup>33</sup> Author interview, 14 November 2022.

<sup>34</sup> See, for example, Center for Economics and Social Rights (2022), ‘Rights-Based Economy’, <https://www.cesr.org/rights-based-economy>.

<sup>35</sup> Author interview, 19 December 2022.

<sup>36</sup> See, for example, Human Rights Measurement Initiative (undated), HMRI Rights Tracker, <https://rightstracker.org/en>.

Human rights are an important part of the toolkit in responding to climate change. This is briefly acknowledged in the Paris Agreement, which states that parties should ‘respect, promote and consider their respective obligations on human rights’ in the context of action to address climate change.<sup>37</sup> In fact, human rights norms, laws and mechanisms have much more to offer than this passing mention suggests.

First, the proliferation of climate litigation has drawn increasingly and extensively on human rights.<sup>38</sup> The landmark *Urgenda* judgment in the Netherlands in 2019 expanded the possibilities for litigation against states on the basis of human rights.<sup>39</sup> There has also been an expansion of civil litigation against corporations to force them into aligning business practices with the Paris Agreement.<sup>40</sup> Numerous important rulings include the *Milieudefensie* case against Shell in 2021, which established a precedent for using the non-binding human rights provisions of the UNGPs in tort claims against corporations.<sup>41</sup> Climate litigation based on human rights before international courts is growing – including several cases before the European Court of Human Rights,<sup>42</sup> and requests for advisory opinions from the International Court of Justice<sup>43</sup> and the Inter-American Court of Human Rights.<sup>44</sup>

Second, the concept of a ‘just transition’ based on human rights is an important safeguard against harms in the context of a rapid energy transition. This is likely to be highly relevant and necessary in the coming years. The concept focuses on ensuring that the transition is carried out in an inclusive way that mitigates the risks to people who face potential harms. These could include, for example, loss of work in industries linked to fossil fuels, or loss of access to lands that are mined for raw materials required for battery technology. Human rights standards can provide specificity and clarity to define what a just transition should look like in different contexts, from workers’ rights to the rights of indigenous peoples. A rights-based approach also ensures particular attention is brought to the differentiated effects of climate change on specific groups of people, including through the lens of intersectionality.

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<sup>37</sup> United Nations Framework Convention on Climate Change (2016), *The Paris Agreement*, p. 2, [https://unfccc.int/sites/default/files/resource/parisagreement\\_publication.pdf](https://unfccc.int/sites/default/files/resource/parisagreement_publication.pdf).

<sup>38</sup> Guruparan, K. and Moynihan, H. (2021), *Climate change and human rights-based strategic litigation*, Briefing Paper, London: Royal Institute of International Affairs, <https://www.chathamhouse.org/2021/11/climate-change-and-human-rights-based-strategic-litigation>. See also Rodríguez-Garavito, C. (2022), ‘Introduction’, in Rodríguez-Garavito, C. (ed.) (2022), *Litigating the Climate Emergency: How Human Rights, Courts, and Legal Mobilization Can Bolster Climate Action*. Cambridge: Cambridge University Press, p. 2.

<sup>39</sup> In 2019, in *The State of the Netherlands (Ministry of Economic Affairs and Climate Policy) vs Stichting Urgenda*, the Supreme Court of the Netherlands ordered a reduction, by the government of the Netherlands, in greenhouse gas emissions by at least 25 per cent, compared with 1990, by the end of 2020. For an English-language translation of the judgment, see <https://www.urgenda.nl/wp-content/uploads/ENG-Dutch-Supreme-Court-Urgenda-v-Netherlands-20-12-2019.pdf>.

<sup>40</sup> Author interview, 10 May 2023.

<sup>41</sup> *Milieudefensie et al. vs Royal Dutch Shell PLC* (2021) C/09/571932, <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2021:5339&showbutton=true>.

<sup>42</sup> For an overview, see International Network for Economic, Social & Cultural Rights (ESCR-Net) (2023), ‘Increased Scrutiny of Climate Crisis Emerging before International Courts’, 28 June 2023, <https://www.escr-net.org/news/2023/increased-scrutiny-climate-crisis-emerging-international-courts>.

<sup>43</sup> International Court of Justice (2023), ‘The General Assembly of the United Nations requests an advisory opinion from the Court on the obligations of States in respect of climate change’, press release, 19 April 2023, <https://www.icj-cij.org/sites/default/files/case-related/187/187-20230419-PRE-01-00-EN.pdf>.

<sup>44</sup> Inter-American Court of Human Rights (2023), ‘Request for an advisory opinion on the Climate Emergency and Human Rights submitted to the Inter-American Court of Human Rights by the Republic of Colombia and the Republic of Chile’, 9 January 2023, [https://www.corteidh.or.cr/docs/opiniones/soc\\_1\\_2023\\_en.pdf](https://www.corteidh.or.cr/docs/opiniones/soc_1_2023_en.pdf).

Third, the human rights framework can usefully complement the concept of ‘loss and damage’. This concept refers to the destructive impacts of climate change that cannot be or have not been avoided by mitigation (reducing greenhouse gas emissions) or adaptation (adjusting to and building resilience against current and future climate change impacts). It includes both economic (financially quantifiable) and non-economic aspects, such as the loss of cultural heritage or traditional ways of life.<sup>45</sup> The agreement at the 27th UN Climate Change Conference (COP27) in November 2022 to establish a Loss and Damage Fund creates a new funding arrangement to support countries with the least ability to recover from climate harms, although the politically vexed questions about how to turn this commitment into action are yet to be settled. The language of human rights can be helpful to describe the harms articulated as loss and damage, including elements of non-economic loss and damage that might otherwise be considered as somewhat elusive. The rich tradition of economic, social and cultural rights is particularly important in this regard, including the right to an adequate standard of living and the right to health, as well as the rights set out in the UN Declaration on the Rights of Indigenous Peoples. Human rights principles – including non-discrimination and substantive equality, effective remedy and meaningful participation for affected people in decision-making – also provide potential elements to guide how the fund should be implemented.<sup>46</sup>

Fourth, in terms of addressing climate change and environmental degradation, there has been some normative innovation within human rights that portends well for the future. The recognition of a right to a clean, healthy and sustainable environment by the UN Human Rights Council in 2021, and subsequently by the UN General Assembly in 2022, is an important statement of intent, even if there are still unanswered questions about how the right will be used and whether it will be enshrined in law.<sup>47</sup> More broadly, nascent efforts to sketch out the idea of rights of non-humans in nature,<sup>48</sup> described by one interviewee as ‘fascinating and anarchic’,<sup>49</sup> point to further disruptive innovation. It is not yet clear how far the human rights paradigm will be able to stretch, but a purely anthropocentric approach may not hold indefinitely.

Climate change is also forcing a new reckoning with the inequities and injustices that brought us to this point. In 2022, notably, the IPCC acknowledged for the first time ‘historical and ongoing patterns of inequity such as colonialism’.<sup>50</sup> Tracing back present-day human rights impacts to the harms of colonialism is a line of thinking with potentially important consequences for the future, especially at a time when some African states have begun fresh efforts to use the human rights system

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<sup>45</sup> The United Nations Framework Convention on Climate Change categorized non-economic loss and damage, *inter alia*, in terms of ‘life, health, displacement and human mobility, territory, cultural heritage, indigenous/local knowledge, biodiversity and ecosystem services’. United Nations Framework Convention on Climate Change (2013), Non-economic losses in the context of the work programme on loss and damage, FCCC/TP/2013/2, <https://unfccc.int/resource/docs/2013/tp/02.pdf>.

<sup>46</sup> See, for example, Amnesty International and the Center for International Environmental Law (2023), *Human Rights as a Compass for Operationalizing the Loss and Damage Fund*, February 2023, <https://www.amnesty.org/en/wp-content/uploads/2023/02/IOR4064632023ENGLISH.pdf>.

<sup>47</sup> *Ibid.*, pp. 6–9.

<sup>48</sup> See, for example, Rodríguez-Garavito (2022), ‘More than human rights: What can we learn from trees, animals, and fungi?’.

<sup>49</sup> Author interview, 19 December 2022.

<sup>50</sup> Pörtner et al. (eds) for Intergovernmental Panel on Climate Change (2022), para. B.2.

to address the legacies of colonialism.<sup>51</sup> Efforts to address climate change may bring together issues of development financing, human rights and confronting colonial legacies in a promising new way.

If the human rights system has already made important contributions in addressing the impacts of climate change, there is a longer road ahead on the biodiversity crisis.<sup>52</sup> The Kunming-Montreal Global Biodiversity Framework, adopted at the Conference of the Parties to the Convention on Biological Diversity (COP15) in December 2022, acknowledges the right to a clean, healthy and sustainable environment and addresses the need to protect indigenous peoples and environmental defenders in the context of conservation.<sup>53</sup> The delicate nexus of energy transition, environmental conservation and the rights of indigenous peoples should be kept under close scrutiny from a human rights perspective, and should be central to the human rights agenda of the future.

## Technology and human autonomy

The pace of technological development and its encroachment into all areas of life is raising questions on many levels – from questions about agency and consent to deeper ones about how to live a meaningful life – and about the sustainability of democracy as we know it. Technological capabilities continue to develop much faster than regulation. Left unaddressed, this could pave the way for exacerbated risks across multiple sectors, including for human rights. The challenges posed by artificial intelligence (AI) in particular are new and fast-changing. As one interviewee highlighted, parts of the human rights sector currently feel unprepared to take them on.<sup>54</sup> But as these challenges become more urgent, the role for human rights as a global framework predicated on the equal dignity of humans will be instrumental in addressing them.<sup>55</sup>

From a human rights perspective, the rapid advancement of technology raises a broad array of challenges, including around algorithmic bias and discrimination, surveillance and privacy, and the use of AI in public sector decision-making. Technology has already provided tools for authoritarian behaviour by governments (including democratically elected ones): surveillance technologies such as Pegasus offer capabilities that shift power away from ordinary people and facilitate repressive forms of government.<sup>56</sup> Meanwhile, democracy and the civic conditions required for it to work have been damaged by the proliferation of disinformation through social media algorithms aimed at maximizing user engagement. The concerns are magnified by the control of the ‘digital public square’ by a small number

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<sup>51</sup> See, for example, United Nations General Assembly, Human Rights Council (2020), ‘Promotion and protection of the human rights and fundamental freedoms of Africans and of people of African descent against excessive use of force and other human rights violations by law enforcement officers through transformative change for racial justice and equality’, A/HRC/RES/47/21, adopted 13 July 2021, [https://digitallibrary.un.org/record/3937802/files/A\\_HRC\\_RES\\_47\\_21-EN.pdf](https://digitallibrary.un.org/record/3937802/files/A_HRC_RES_47_21-EN.pdf).

<sup>52</sup> One expert interviewee estimated that this agenda was around eight years behind climate and human rights. Author interview, 16 September 2022.

<sup>53</sup> United Nations Environment Programme (2022), ‘Decision adopted by the Conference of the Parties to the Convention on Biological Diversity’, CBD/COP/DEC/15/4, 19 December 2022, <https://www.cbd.int/doc/decisions/cop-15/cop-15-dec-04-en.pdf>.

<sup>54</sup> Author interview, 27 April 2023.

<sup>55</sup> This issue is explored in further depth in Jones, K. (2023), *AI governance and human rights: Resetting the relationship*, Research Paper, London: Royal Institute of International Affairs, <https://doi.org/10.55317/9781784135492>.

<sup>56</sup> Chatham House roundtable on human rights and technology, 30 June 2022.

of technology companies, which could be perceived as creating a three-way social contract between governments, people and Big Tech.<sup>57</sup> The tech giants are now locked in competition with each other to maximize control over the future of AI.<sup>58</sup> It is not difficult to envisage the need for prudence being outweighed by the brute logic of securing market share.

This situation creates risks for the plausibility of democracy, with many further implications for human rights. As boundaries between truth and fiction are further eroded, the possibility of genuine democratic discussion is slipping out of reach. AI is likely to accelerate this challenge. As the historian and philosopher Yuval Noah Harari has written, in developing the capabilities to generate and manipulate language, AI may have ‘hacked the operating system of our civilisation’ and may risk breaking trust in democratic debate.<sup>59</sup>

In this context, one of the most important emerging areas for human rights is to protect human autonomy and the freedom of the human mind against the kind of interference made possible by technology. This is closely related to the freedom to seek, receive and impart information. The human rights framework contains a distinction between the *forum internum* – the inner life of a person, which drives their decisions and actions – and the *forum externum*, or how this inner life is externalized. Until now, the focus has been mainly on the latter, which concerns the regulation of human behaviour.<sup>60</sup> Only recently has there been any serious attention to the idea that the *forum internum* itself may require more elaborate protection.

Now, however, the idea that humans are capable of rational and autonomous decisions about the political, social and economic questions that our societies face is increasingly coming into question. The novelty of this challenge is subtle, since human attitudes are continually formed and challenged through interactions of different kinds.<sup>61</sup> Yet the deliberate and manipulative character of ‘nudging’ based on mass surveillance and data-gathering, and the willingness (or necessity) for users to outsource decisions to technology, raises urgent questions about the extent to which we are increasingly surrendering control of our internal lives. As technology becomes increasingly adept at identifying patterns and predicting our thoughts and feelings, those who control such technology become capable of exploiting and manipulating us. Increasingly, as scholars such as Susie Alegre and Nita Farahany have highlighted, the next frontier for technology is inside the human mind.<sup>62</sup>

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<sup>57</sup> Ibid.

<sup>58</sup> See, for example, Afina, Y. (2023), ‘Digital platform regulation: Governing the ungovernable’, Chatham House Expert Comment, 24 February 2023, <https://www.chathamhouse.org/2023/02/digital-platform-regulation-governing-ungovernable>.

<sup>59</sup> Harari, Y. N. (2023), ‘Yuval Noah Harari argues that AI has hacked the operating system of human civilisation’, *The Economist*, 28 April 2023, <https://www.economist.com/by-invitation/2023/04/28/yuval-noah-harari-argues-that-ai-has-hacked-the-operating-system-of-human-civilisation>.

<sup>60</sup> United Nations Human Rights Committee (1993), ‘General Comment No. 22: The right to freedom of thought, conscience and religion (Article 18)’, CCPR/C/21/Rev.1/Add.4, 27 September 1993, para. 3.

<sup>61</sup> United Nations Office of the High Commissioner for Human Rights (2021), ‘A/76/380: Interim report of the Special Rapporteur on freedom of religion or belief, Ahmed Shaheed: Freedom of thought’, 5 October 2021, para. 28, <https://www.ohchr.org/en/documents/thematic-reports/a76380-interim-report-special-rapporteur-freedom-religion-or-belief>.

<sup>62</sup> Alegre, S. (2023), *Freedom to Think: Protecting a Fundamental Human Right in the Digital Age*, London: Atlantic Books. Author interview with Nita Farahany, 27 April 2023; remarks cited with kind permission.

Notwithstanding the advantages that new technology can bring, the encroachment of technology on human autonomy is an area to which the human rights sector should devote increasing attention, through careful analysis of potential risks, how these might be mitigated, and what ethical guardrails should be put in place. For example, Farahany has made the case that the UN Human Rights Committee should develop the concept of a right to ‘cognitive liberty’ – such as through a general comment, an authoritative interpretation of a human rights treaty. She has suggested, too, that a recognition of the need to protect the *forum internum* is also important from the perspective of fulfilling the right to mental health.<sup>63</sup>

As another interviewee expressed it, the value of human rights consists in their ability to help us to have a relationship with technology that respects and preserves our humanity.<sup>64</sup> Technology also offers powerful ways to enhance human flourishing, including in areas such as healthcare and education, among many others. Risks and opportunities sit very close together. Human rights offer a way of asserting human dignity and autonomy in the face of technologies that could revolutionize experiences of being human for better and for worse.

## Conclusion

The renewal of human rights must be about the extent to which these rights can address the most serious global challenges. This is a lot to ask, but there are reasons for optimism.

The current context has given rise to a sense that the challenges humanity faces are almost beyond our capability to control or resolve. Among others, the entwined challenges of economic inequality, climate and biodiversity crises, and rapid technological advancement in the hands of a few powerful companies pose real and interrelated risks to our human future. Certainly, the task of securing a sustainable and equitable future is daunting. But it is not necessary to submit to the inevitability of failure. Rather, the crises and challenges of today call for bold and creative responses based on interdisciplinary thinking. It is becoming increasingly implausible to consider issues that have traditionally belonged to different frameworks in isolation from one another.

The human rights framework and system have much to offer in terms of moral, legal, intellectual, historical and institutional resources, provided that they can pivot effectively to this agenda. In the words of human rights scholar and practitioner Philip Alston: ‘[A]s major countries begin to move beyond neo-liberal economic policies in response to Covid-19, global warming and a new awareness of the ills that flow from extreme inequality, so will the human rights movement, broadly defined, start to reflect that very different agenda.’<sup>65</sup>

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<sup>63</sup> Author interview with Nita Farahany, 27 April 2023; remarks cited with kind permission. See also Smyth, J. and Murphy, H. (2023), ‘The teen mental health crisis: a reckoning for Big Tech’, 26 March 2023, <https://www.ft.com/content/77d06d3e-2b9f-4d46-814f-da2646fea60c>.

<sup>64</sup> Author interview, 25 May 2023.

<sup>65</sup> Alston, P. (2022), ‘The Past and Future of Social Rights’, in Jensen, S. and Walton, C. (eds) (2022), *Social Rights and the Politics of Obligation in History*, Cambridge: Cambridge University Press, p. 319, <https://doi.org/10.1017/9781009008686.016>.

Placing the issues of inequality, climate change and technology at the heart of the global human rights agenda does not imply turning away from other human rights priorities. In particular, many civil and political rights continue to be under serious threat, especially in the context of rising authoritarian behaviour from governments – whether elected or not. The importance of civil and political rights will remain very clear, including in protecting the conditions for protest and participation, and in efforts to hold governments and corporations accountable. The full breadth of human rights should be considered as a great asset in addressing challenges of great complexity. It is both in contributing normatively to progress on the grand global challenges and holding open space for civic participation that human rights may prove their indispensable worth.

There is no sense in which human rights are a universal remedy, but they can play a role in shaping a world in which humans are able to flourish and the values of dignity and equality are upheld. This is a moment to commit to the renewal of human rights and to look ahead to the next 25 years with confidence and ambition. This should involve embracing shifts in methodology and agenda, in response to the changing nature of threats to human dignity and flourishing, and a renewed concern for the rights of future generations. It should include a fresh commitment to interdisciplinary approaches between human rights and other frameworks, recognizing the place of both laws and moral narratives, and following the leadership of those who experience harms. In doing these things, there is reason for confidence that human rights can play a constructive role in tackling the grand challenges facing the world today and in the future.

## About the author

**David Griffiths** is an associate fellow of the International Law Programme at Chatham House and a consultant on human rights strategy. He is also a member of the OSCE's Panel of Experts on Freedom of Religion or Belief.

Previously, David worked at Amnesty International as director of the Office of the Secretary General, and, before that, as that organization's deputy director for Asia. He began his human rights career in field research and advocacy on freedom of religion and minority rights in South and Southeast Asia. He holds degrees from the University of Oxford and SOAS University of London.

## Acknowledgments

This briefing paper is published as part of the Chatham House International Law Programme's Human Rights Pathways initiative, funded by the Swiss Federal Department of Foreign Affairs.

The author is grateful to the people whose insights and analysis provided a foundation for this paper, including around 45 interviewees and participants in five Chatham House roundtables held throughout 2022. This paper is only the briefest summary of the richness of all they shared.

Thanks are also due to people at Chatham House, both in the International Law Programme and beyond, who provided substantive input including by generously reviewing this paper in full or in part. Two anonymous peer reviewers, as well as editors Jo Maher and Jake Statham, did much to strengthen the paper through various iterations. Valuable interactions with other associate fellows and Academy associates, including Shaharзад Akbar, Bennett Freeman, Harriet Moynihan, Ruma Mandal and Jennifer Zerk, helped to stimulate or refine ideas. Final thanks go to Rashmin Sagoo, Talita Dias, John Milnes-Smith and Rowan Wilkinson for their crucial input and support throughout the process.



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Cover image: Human rights and climate activists, wearing white t-shirts in support of political prisoners, demonstrate during the UN Climate Change Conference (COP27) in Sharm El-Sheikh, Egypt, on 10 November 2022.

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ISBN 978 1 78413 588 1

DOI 10.55317/9781784135881

Cite this paper: Griffiths, D. (2023), *Renewing human rights: Inequality, climate and technology at the heart of the human rights agenda*, Briefing Paper, London: Royal Institute of International Affairs, <https://doi.org/10.55317/9781784135881>.

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