



JUST ATONEMENT INC.

justice
hope peace unity equal opportunity
golden age
progress sustainability democracy freedom
human rights harmony civilization

Just Atonement Inc.

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Just Atonement Inc. is a legal non-profit that trains new human rights defenders to address threats to human rights, a livable planet, and the international rule of law.

JAI was founded in the United States of America in 2017.

JAI was founded to address the challenges arising from the intersection of climate change, global peace, and threats to the rule of law and the habitability of the planet.

JAI submits this written submission with respect to the Universal Periodic Review of Germany

Summary of Conclusions

1. As an industrialized nation with a traditional history of coal mining, Germany bears a large share of responsibility for the climate crisis. Climate change will render Germany particularly vulnerable to increased flooding, urban heatwaves and a greater intake of climate refugees.

2. Germany has set ambitious targets for emissions reductions and recognized the rights implications of climate change following the decision in *Neubauer, et al. v. Germany*.¹ However, it has also backslid on these commitments, as it seeks to reopen coal mines in the face of the energy crisis caused by the Russian invasion of Ukraine.

3. Germany has pledged billions of Euros in funding to a just transition, climate insurance mechanisms for developing countries. It was also a key supporter of the loss and damage fund announced at COP 27.

4. Germany has not yet done much to incorporate the gendered impact of climate change into its policy making process. This could be one avenue through which it could enhance its reputation as a progressive climate leader.

German Vulnerability to Climate Change



5. Germany is a highly industrialized nation with a small coastline. Its traditional industrial base lies in the Ruhr region, which is dependent upon the Rhine river to facilitate trade and commerce. As such, the primary risks of climate change to Germany are the effects of high temperatures on dense urban areas and the devastation that is caused by increased flooding, as a result of rising sea levels.

6. In June 2021, the first heat wave of the year temporarily made Germany the hottest region in Europe.² According to research by Germanwatch, Germany was third among all countries most affected by extreme weather in 2018, its hottest summer since record-keeping began (in 1881) with temperatures 2.9 °C above average.³ A new report commissioned by the German Federal Environment Ministry predicts that rising temperatures could increase heat-related mortality up to three-fold, compared with the 1971-2000 period, by the end of the century.⁴

7. In July 2021, flash floods exacerbated by climate change killed almost 200 people in Germany after the Ahr river burst its banks.⁵ The floods also caused billions in damage and destroyed infrastructure across the affected area. These floods are likely to continue to be an issue for Germany as a result of climate change, making these regions vulnerable to further devastation.⁶

8. The extreme heat seen in Germany has also led to it losing 1 of its 5 glaciers.⁷ It is predicted that the remaining glaciers will disappear in the next 10 years.⁸ This will have an effect on the meltwater supply delivered to rivers, including the Rhine and increases the risk of drought.⁹ It will also compromise the ecosystem of the local area.¹⁰

9. As a highly industrialized and prosperous nation, Germany is likely to experience a significant rise in climate migration as regions become uninhabitable due to climate change. This will place further pressure on social and economic resources.

10. These issues will affect a myriad of rights, including the right to life and the right to a clean, healthy and sustainable environment. The loss of socio-economic opportunity and damage to infrastructure also has the potential to disrupt traditional social structures, which can in turn have an adverse impact on rights.

German Responsibility for Climate Change

11. Germany is the European Union's biggest greenhouse gas emitter, and ranks 7th worldwide, with per capita emissions well above the average for the EU's 27 member states.¹¹ It remains dependent upon fossil fuels to power its industrial economy.

12. Germany has struggled to decouple itself from a dependency on natural gas from Russia. It has advocated for G7 nations to walk back a commitment that would halt the financing of overseas fossil fuel projects by the end of the year,¹² and reopened coal plants in an effort to solve the energy supply crisis caused by the war in Ukraine.¹³ In its efforts to mitigate an existing issue, Germany has backslided on its climate commitments.



13. Germany also has one of the strongest economies in the world and is the leading economic power in Europe. This places it in a unique position to accommodate the needs of those displaced by climate change and assist more vulnerable nations with their efforts to adapt to climate change. As a market leader, Germany can also affect climate action through its economic decisions in relation to renewable energy investment, fossil fuel production and developmental aid tied to climate justice objectives.

14. We would urge Germany to reconsider its efforts to reopen coal mines in light of this position as a market leader. By slowing down the transition from fossil fuels, Germany is placing short term interests over the need to mitigate the catastrophic effect continued use of coal will have on global warming and the deterioration of human rights.

Economic Commitments to Climate Justice

15. We commend Germany for approving almost 180 Billion Euros to be used in a climate and transformation fund.¹⁴ Much of this funding will be devoted to pursue greater renewable energy investment and the rendering of homes to be energy efficient. Germany contributed funding to the Just Transition mechanism of the European Green Deal and has pledged funding to areas historically reliant on the coal industry to provide employment.

16. In 2021, Germany provided a record 5.34 Billion Euros from the federal budget for climate action in developing and emerging countries.¹⁵ This funding is for mitigation and adaptation to the effects of climate change. This is important in assisting developing countries with adapting measures that can mitigate the worst extent of any rights violations caused by climate change.

17. Germany has led the way on the Global Shield against Climate Risks. The shield will bundle activities in the field of climate risk insurance and prevention in close cooperation with the V20 (an association of states that are particularly threatened by climate change). This insurance based mechanism is distinct from calls for compensation for loss and damage for countries worst affected by the climate crisis, and does not necessarily come with much financial commitment at present. Germany has pledged 170 Million Euros towards this fund.¹⁶ While a good start, we note that this would not be sufficient to cover the extensive rights violations caused by climate change.

18. The German Chancellor has pledged to support those countries hit hardest by climate change in a targeted way in dealing with loss and damage as part of the COP 27 loss and damage fund.¹⁷ No specific figure on how much Germany is willing to provide in loss and damage compensation. However, the details of the fund have yet to be fully implemented and so we understand that Germany may be waiting for further negotiation. We would advocate that Germany expand its funding in this area to ensure that loss and damage at least offers some form of compensation for victims of climate change.

19. Germany has been one of the largest contributors to efforts to support climate justice and we commend the state for its efforts.



Membership of International and European Treaties and Climate Change Commitments

20. From a treaty perspective, Germany has been a leader in committing to human rights agreements, and its national policies also reflect this leadership. We commend Germany for its formal alignment with the human rights regimes and its declarations for ambitious climate action, which in turn has the potential to reduce the effects of climate change on human rights.

21. Germany is a signatory to the Paris Agreement. It has also ratified the International Covenant on Civil and Political Rights, the Optional Protocol of the Convention against Torture and the International Covenant on Economic, Social and Cultural Rights and the Refugee Convention (CESCR). More recently, Germany signed the Glasgow Climate Pact and the Global Methane Pledge and committed to the establishment of a loss and damage fund for developing countries at COP 27.

22. As a member of the EU, Germany is also bound to support the European Green Deal, which pledges billions of Euros in support of the transition to a net zero economy. The overarching objectives of the Green Deal is to ensure the EU is climate neutral by 2050. The Deal includes a Just Transition mechanism, which pledges €55 billion over the period 2021-2027 in the most affected regions, to alleviate the socio-economic impact of the transition. This Just Transition mechanism is the key means by which the EU seeks to integrate rights considerations into its wider climate commitments.

23. Under the Climate Action Programme 2030 and the new Climate Action Act (Klimaschutzgesetz) the German government has made a binding undertaking to reduce greenhouse gas emissions by 65% by 2030. Germany's final objective is to obtain net zero emissions by 2045; 5 years ahead of the wider 2050 target.¹⁸ We commend Germany for pledging radical targets, as this will assist in mitigating rights violations. We urge Germany to ensure such ambition is coupled with appropriate funding as to guarantee the success of these targets.

Legal Framework on Climate Change and Human Rights

24. German law has addressed the link between climate change and human rights from an international, constitutional and litigatory perspective.

25. Germany supported the UN General Assembly Resolution recognising the right to a clean, healthy and sustainable environment.¹⁹

26. Article 20A of the German Constitution (Basic Law) recognises that the state is “mindful also of its responsibility towards future generations, the state shall protect the natural foundations of life and animals by legislation and, in accordance with law and justice, by executive and judicial action, all within the framework of the constitutional order”.²⁰ The recognition of the rights of future generations is important in ensuring the German legal order takes account of its rights obligations in the context of climate change.



27. In *Neubauer, et al. v. Germany*,²¹ Germany's Constitutional Court found that German inaction on climate change violated the rights of youth activists who had taken the case. They stated that Article 20a of the Basic Law not only obliges the legislature to protect the climate and aim towards achieving climate neutrality, but “also concerns how environmental burdens are spread out between different generations”.²² As a result, Germany amended its climate legislation to set the 65% target discussed above and to reach net zero by 2050.²³ We commend the German judiciary for taking such a progressive approach to the link between climate change and human rights, and the German government for subsequently complying with the court's ruling.

28. Germany has refused to recognise the concept of climate refugees.²⁴ Several officials are on record disagreeing with the concept and there is no definition of climate refugee provided for within Germany's legislation. We believe that Germany should prepare to discuss the mitigation of anticipated displacement from climate change, as well as ensure that the human rights of those who come to Germany fleeing the effects of climate change are protected.

29. We believe there is a capacity for Germany to expand on the formal recognition of the link between climate change and human rights.

Security and Climate Change

30. Germany has shown itself to be cognisant of the security threat posed by climate change.

31. We commend Germany for supporting the draft resolution co-written by Ireland and Ghana, which would have had the UN Security Council recognize climate change as an international threat to peace and security.²⁵

Gender and Climate Justice

32. The economic disruption, physical health impacts and socio-economic crises caused by climate change will have a disproportionate impact on women. This will in turn have an adverse impact on their human rights.

33. Germany has not yet taken any steps towards integrating an effective gender perspective into its climate policy and action at national, regional and local government level, including the recommended activities of the Gender Action Plan adopted in 2017 under the UNFCCC.²⁶ These activities include the implementation of gender sensitive climate policies, gender balanced participation in climate policy making.

34. The NDC submitted by the EU as a whole does highlight a commitment to gender equality.²⁷ Germany also had a broad commitment within its policy regulations to incorporate equality between men and women into all aspects of policy making.²⁸

35. We would advocate for Germany to use its commendable gendered approach to policy making to ensure it can meet the objectives of the Gender Action Plan.



Conclusions and Recommendations

36. Germany is one of the most progressive countries when it comes to recognizing the link between human rights and climate and acting accordingly. Its economic commitments and political leadership on climate justice should be commended. However, this does not mean it has done enough to ensure the international community can meet necessary climate commitments. In particular, we are critical of efforts to reopen coal mines and the reluctance to shift from coal in the face of the Ukrainian crisis.

37. We commend Germany for setting ambitious climate targets and complying with the requests made by the Constitutional Court. We also support the recognition of the impact climate change will have on the rights of future generations.

38. We recognize Germany's commitment to being a climate leader and believe it must do everything it can to ensure it meets the radical targets and financial commitments it has set for itself, while also using its significant political influence to ensure other nations are incentivised to do the same. Should Germany meet its 2030 target, it will set an important marker for fast climate change mitigation that can in turn reduce the potential for further rights violations.

39. We warn that Germany must halt efforts to re-open coal mines and re-prioritize its commitment to renewable energy. This will ensure it can meet its climate commitments and not lose its standing as a climate leader.

40. We recommend that Germany exert its political influence within the EU to advocate reform of the Common European Asylum System to recognize climate refugees. This would be an important step forward for asylum seekers in terms of ensuring their human rights can be vindicated.

41. We commend Germany for its support of a Just Transition mechanism. We recommend that Germany use its resources and influence to advocate for the Just Transition funding to be used in a rights-oriented manner.

42. We commend Germany for its support of climate insurance and loss and damage compensation. We further commend Germany for its support of the COP 27 loss and damage fund. We recommend that Germany offer as expansive a commitment to funding as possible in regard to loss and damage.

43. We recommend that Germany should implement gender sensitive policies into all aspects of its climate mitigation measures. This will ensure that the rights of women are fully recognised and integrated into the wider climate change transition.

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- ¹ *Neubauer, et al. v. Germany Bundesverfassungsgericht* [BVerfG] [Federal Constitutional Court], Mar. 24, 2021, Case No. BvR 2656/18/1.
- ² Human Rights Watch, *Germany: Inaction on Heat Plans Threatens Health* (2021).
- ³ Germanwatch, *Global Climate Risk Index* (2021).
- ⁴ German Federal Environment Ministry, *Klimawirkungs- und Risikoanalyse 2021 für Deutschland* (2021).
- ⁵ Frank Lehmkuhl et al, 'Assessment of the 2021 summer flood in Central Europe' 34 *Environmental Sciences Europe* 107 (2021)
- ⁶ *ibid.*
- ⁷ Bavarian Academy of Sciences, *Zweiter Bayerischer Gletscherbericht: Klimawandel in den Alpen* (2022).
- ⁸ *ibid.*
- ⁹ *ibid.*
- ¹⁰ *ibid.*
- ¹¹ Human Rights Watch, *Germany: Inaction on Heat Plans Threatens Health* (2021)
- ¹² Leslie Hook, *Germany Pushes for G-7 Reversal on Fossil Fuels in Climate Blow* Financial Times (2022) and Alberto Nardelli, *Germany pushes for G-7 Reversal on Fossil Fuels in Climate Blow* Bloomberg (2022)
- ¹³ Robert Bryce, *The Iron Law Of Electricity Strikes Again: Germany Re-Opens Five Lignite-Fired Power Plan* Forbes (2022), Sabine Kinkartz, *Germany's energy U-turn: Coal instead of gas* DW (2022), Vera Eckert, *Germany extends run times for coal-fired power plants to boost supply* Reuters (2022) and Kate Connolly, *Germany to reactivate coal power plants as Russia curbs gas flow* The Guardian (2022).
- ¹⁴ Bundesministerium der Finanzen, *Klima- und Transformations fonds: In Klimaneutralität und Versorgungssicherheit investieren – Menschen und Betriebe entlasten* (2022).
- ¹⁵ Federal Ministry for Economic Cooperation and Development, *Germany increases climate finance for developing and emerging economies – 2021 commitments totalled 5.34 billion euros* (2022).
- ¹⁶ Federal Ministry for Economic Cooperation and Development, *V20 and G7 jointly launch Global Shield against Climate Risks at COP27* (2022).
- ¹⁷ Federal Foreign Office, *Team Germany on the conclusion of COP27* (2022).
- ¹⁸ Federal Climate Change Act (*Bundes-Klimaschutzgesetz*) (2021).
- ¹⁹ UNGA A/76/L.75.
- ²⁰ Article 20A of the German Constitution.
- ²¹ *Neubauer, et al. v. Germany Bundesverfassungsgericht* [BVerfG] [Federal Constitutional Court], Mar. 24, 2021, Case No. BvR 2656/18/1.
- ²² *ibid.*
- ²³ Federal Climate Change Act (*Bundes-Klimaschutzgesetz*) (2021).
- ²⁴ Bundesstag, *Wirtschaftliche Zusammenarbeit und Entwicklung/Antwort* (2020).
- ²⁵ United Nations. 2021. Security Council Draft Resolution S/2021/990.
- ²⁶ UNFCCC, *Gender Action Plan* (2017).
- ²⁷ UNFCCC, *Updated EU Nationally Determined Contribution* (2020)
- ²⁸ Gesetz zur Durchsetzung der Gleichstellung von Frauen und Männern in der Bundesverwaltung – DGleiG (2021).