

Submission to the African Commission on Human and Peoples' Rights in relation to the Study on the Impact of Climate Change on Human and Peoples' Rights in Africa.

13 December 2023

The present submission by the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) aims to highlight the interlinkages between human rights and the climate emergency by unpacking key normative issues on gender-equality and just transitions that are currently not envisaged in the zero-draft 'Study on the Impact of Climate on Human and Peoples' Rights' that is under consideration of the African Commission on Human and Peoples' Rights (ACHPR).

These inputs cover three main sections of the report, namely:

- I) The impact of climate change on vulnerable groups with a specific focus on women.
- II) Climate change response measures and the protection of rights highlighting the abuses often committed by large-scale renewable energy projects and, finally,
- III) A set of key states' human rights obligations that should be envisaged to comprehensively address the climate emergency in the region.

We welcome and congratulate the ACHPR for its efforts to unpack the human rights implications of the climate emergency in the African region. This is a timely and much-needed study to ensure the regional human rights framework respond to these critical issues, to adequately address the fundamental rights of current and future generations.

I. Climate Change and Vulnerable Groups—Women.

The climate emergency impacts all human beings but has disproportionate impacts on women and girls. Due to social norms, traditional beliefs on strict gender roles have imposed subordinate responsibilities on women in all aspects of their lives. Women in Africa bear an unequal responsibility to perform care and domestic work. These include work to care for the young, the sick, and the elderly, as well as securing vital and scarce resources for household use, including food, water, and energy— all of which places women at serious risk of being adversely impacted by the effects of the climate crisis. For instance, during the time Cyclone Freddy hit Madagascar, Mozambique, and Malawi in early 2023, women from the region bore the responsibility of travelling further from their communities to

collect firewood, water, and food, in addition to their responsibilities of caring for their families.¹

As the climate emergency escalates and disasters are more prone to occur, women will tend to be overburden with undervalued, unpaid, and undistributed care and domestic work. Care burdens will increase by the lack of access to key natural resources, heightened health risks, displacement and loss of housing and other essential services disrupted by extreme weather events. The impacts of the climate crisis will raise the demand for care and domestic work within families and communities in a context where there will be fewer resources and much harsher conditions to meet this increasing demand. The overburden of care responsibilities consequently has a direct impact on women and girls' possibilities to exercise their rights to work, education, health, food, housing, and to meaningfully and effectively participate in public life.²

For these reasons, we consider it important to acknowledge in the zero-draft report on the section on the climate impacts on women in paragraphs 17-20, as well as mainstreamed in the analysis on the impact of climate change on specific rights, the increased challenges faced by women and girls due to the overburden of care responsibilities derived from the escalation of the climate emergency, which is putting a strain on their livelihoods and their opportunities to exercise their fundamental rights. This should lead to urgent action towards gender-justice and gender-responsive solutions to climate change.

II. Climate Response Measures and Protection of Rights.

A. The protection of rights in the energy transition.

The mitigation and adaptation actions deployed to combat the climate emergency all too often fail to consider human rights and ensure the participation of relevant actors in their design and implementation. Large-scale and corporate-led renewable energy projects are among the response measures which have raised human rights concerns, especially when implemented in countries in the Global South. Renewable energy is indispensable to decarbonise energy systems, but it also has the potential to harm or undermine human rights, at each of the points along their life cycles, from the extraction of the minerals on which renewable

¹ Reliefweb. *Tropical Cyclone Freddy* (February 2023). Accessed on 11 December 2023 at <https://reliefweb.int/disaster/tc-2023-000023-mdg>. Also see UN Women. *Cyclone Freddy in Malawi: when every little thing counts to save women's and girls' lives*. (April 2023). Accessed on 10 December 2023 at: <https://africa.unwomen.org/en/stories/news/2023/04/cyclone-freddy-in-malawi-when-every-little-thing-counts-to-save-women-and-girls-lives#:~:text=The%20number%20of%20displaced%20people,injured%20persons%20is%20at%202178>.

² Sepúlveda, Magdalena. (2013). Report of the UN Special Rapporteur on Extreme Poverty and Human Rights. Available on 13 December 2023 at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/422/71/PDF/N1342271.pdf?OpenElement>

energy technologies depend to the construction of the infrastructure for energy generation and distribution, and to the commercialisation of energy for domestic uses. Unfortunately, large-scale renewable energy projects are already repeating the mistakes of the fossil-fuel-based industry, which has often adversely impacted the rights of local and indigenous communities, invading their lands, failing to obtain their free prior and informed consent and failing to adequately compensate or resettle those displaced.³

A report on the largest renewable energy companies in the world reveals that most have not adopted essential human rights policies to avoid abuses on communities and workers on which the energy transition depends.⁴ For instance, none of the renewable energy companies part of this study had policies to respect land rights, govern their process of land acquisition or on fair relocation of residents.⁵ Large-scale renewable energy projects have also been found to foster division and political polarisation within communities by offering economic and other benefits to some landowners and refusing to do the same for the rest of the community.⁶ These practices foster a climate of violence against human rights defenders, particularly affecting women human rights defenders.

Attention must also be paid to dynamics in the global political economy of renewable energy, given the significant number of renewable energy projects in Africa that are implemented by companies based in developing countries. Northern States must regulate their renewable energy corporations operating abroad, obliging them to respect human rights and ensuring accountability and access to justice where they do not. The role of donors and international financial institutions supporting renewable energy projects must also be scrutinised.

Ensuring that the energy transition does not reproduce existing abuses and inequalities will require that these risks are clearly identified, with human rights principles embedded into each stage of the energy life cycle. The voices of communities and groups most affected by renewable energy policies and energy poverty must play a central role in this process, given that it is through their experiences and expertise that we will better understand the impacts of

³ Global Initiative for Economic, Social and Cultural Rights (GI-ESCR). *Gender Justice and Renewable Energy* (2020). Accessed on 10 December 2023 at: <https://giescr.org/en/resources/publications/renewable-energy-and-gender-justice-briefing-paper>

⁴ Business and Human Rights Resource Centre. *Renewable Energy and Human Rights Benchmark: Key Findings from the Solar and Wind Sectors*. (2020). Accessed on 11 December 2023 at: <https://www.business-humanrights.org/en/from-us/briefings/renewable-energy-human-rights-benchmark/>

⁵ Ibid.

⁶ Swedwatch. *Defenders at Risk*. (2019). Accessed on 11 December 2019 at: https://swedwatch.org/wp-content/uploads/2019/12/MRfo%CC%88rsvarare_191209_uppslag.pdf

renewable energy policies and their transformative potential for the realisation of human rights.

Against this backdrop of human rights abuses related to energy projects, GI-ESCR suggested including this issue on the section on Climate Response Measures and the Protection of Rights. Currently, despite the systemic problems identified in Africa and beyond, the performance of large-scale renewable energy projects remains largely understudied and unscrutinised. To ensure a just transition to renewable energy that avoids the abuses of fossil-fuel based energy systems the protection and realisation of rights must be put at the centre of climate action.

B. Tax justice to finance climate action and realise human and peoples' rights.

States should mobilise the maximum available resources to respond to the climate crisis and foster structural changes in consumption and production patterns. For such aims, States should implement the following 5 principles developed by the tax justice movement,⁷ by imposing taxes and other levies on the activities of extractive industries and high-income individuals- who are majorly responsible for climate change due to their high carbon emissions – while investing public resources in phasing out fossil-fuel-based economies.

1. Revenue:

To raise domestic revenue, states must curb illicit financial flows whose major culprits are extractive industries, halt unnecessary tax incentives to their benefit and implement progressive taxation, including taxing excess profits made by extractive industries and high-income individuals. Extractive Industries and the wealthy must pay their fair share of taxes which should be commensurate with the magnitude of their contribution to the climate emergency.

2. Redistribution:

Redistribution would mean that an adequate percentage of the revenue generated through tax policy is provided to local governments to support mitigation and adaptation, including in the form of quality public services delivery. In addition, host communities of extractive and energy projects should be adequately compensated in an equitable and transparent manner.⁸

⁷ Feminist Action Nexus for Economic and Climate Justice, Tax Justice Network, and Tax justice Network Africa. *The Principles of Tax Justice and the Climate Crisis in Africa's resource-rich Nations*. Accessed on 17 October 2023 at: https://wedo.org/wp-content/uploads/2023/09/ActionNexus_Brief-on-Climate-and-Extractives-in-Africa_Final_Sept2023.pdf. Also see, Mager and Chaparro. *Delivering climate justice using the principles of tax justice*. (June 2023). Accessed on 17 October 2023 at: https://taxjustice.net/wp-content/uploads/2023/06/Policy-brief-climate-justice_2206.pdf.

⁸ Feminist Action Nexus for Economic and Climate Justice, Tax Justice Network, and Tax Justice Network Africa. *The Principles of Tax Justice and the Climate Crisis in Africa's resource-rich Nations*. Accessed on 17 October 2023 at: https://wedo.org/wp-content/uploads/2023/09/ActionNexus_Brief-on-Climate-and-Extractives-in-Africa_Final_Sept2023.pdf.

Redistribution would help address vertical and horizontal inequalities exacerbated in the contest of climate change.

3. Repricing:

Carbon repricing should aim to make historic polluters pay and shift the burden of climate financing on historic emitters, including for loss and damage.⁹ These measures should be implemented in tandem with compensation measures able to offset the increase in prices of essential staples and other products that disproportionately affect low-income and middle classes.

4. Representation:

This principle aims to reinforce the social contract between the state and its citizens and increase the accountability and responsiveness of state authorities regarding the use of the revenue collected from extractive industries.¹⁰

5. Reparation:

The global tax architecture must be reformed to make amends for historical ecological damage. By 2030, estimates for loss and damage in low-income countries will range from 290 to 580 billion US dollars annually. There is an urgent need for developed countries to make climate reparations for their historical carbon emissions and the loss and damage sustained through ecological destruction over centuries in developing nations. With the majority of companies operating in Africa having their headquarters in the richest countries, extractive industries have been a significant polluter and contributor to greenhouse gas emissions.¹¹

In this line, we suggest the 5 principles of tax justice to be reflected in the draft report as response measures that could be deployed to protect and realise the rights envisaged in the African Charter of Human and Peoples' Rights as they play a critical role in fostering behavioural change and mobilising resources to address the climate emergency.

III. States Human Rights Obligations in the Context of Climate Change

States' human rights obligations in the context of climate change encompass the duties to respect, protect and fulfil the rights contained in the African Charter on Human and Peoples' Rights. In this regard, it must be clearly stated as recognised by United Nations Human Rights Treaty Bodies that failure to prevent foreseeable human rights harms caused by climate change, or a failure to mobilise the

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

maximum available resources in an effort to do so, could constitute a breach of international human rights obligations.¹²

In that sense, climate mitigation and adaptation measures adopted by States must seek to address all forms of inequality and discrimination, including advancing substantive gender equality and realising the rights of historically marginalised groups, such as women, Indigenous Peoples, persons with disabilities, low-income communities, migrants, children, among others, who are more at risk of suffering from the effects of the climate crisis.¹³ In the implementation of climate policy, States must also respect, protect and fulfil the rights of all including by phasing out fossil fuels, promoting renewable energy and combating deforestation; ensuring access to essential public services in education, health, water, sanitation, and energy; implement human rights due diligence policies for private actors engaged in the response to the climate emergency; and provide environmental information and ensure public participation. Specifically, States have the duty to protect and defend the rights of environmental human rights defenders and provide effective access to justice when human rights abuses are committed in this context.

To comply with these obligations, States have the human right obligation to cooperate and provide international assistance. Developed and high-income States should support effective climate action in developing countries by facilitating climate finance, transfer of green technologies and fostering capacity-building on climate mitigation and adaptation.¹⁴ Moreover, States should cooperate to address the loss and damage suffered by the most vulnerable countries, paying particular attention to protecting the rights of marginalised populations that tend to be at risk of climate harm.¹⁵

We encourage the ACHPR to recognise in the section on States' Human Rights Obligations in its draft report these key States' Human Rights Obligations in the context of climate change that have been recognised at the international level and are critical to address the climate emergency at the regional level.

¹² Office of the High Commissioner for Human Rights (OHCHR). Five UN human rights treaty bodies issue a joint statement on human rights and climate change. (2019). Accessed on 10 December 2023 at: <https://www.ohchr.org/en/statements/2019/09/five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights-and>. Also see UN Committee on Economic, Social and Cultural Rights (CESCR). Committee Releases statement on climate change and the Covenant. (2018). Accessed on 10 December 2023 at: <https://www.ohchr.org/en/statements/2018/10/committee-releases-statement-climate-change-and-covenant>

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

For more information, please consult the following publications:

- [*Principles for Human Rights in Fiscal Policy*](#) (2022).
- [*Setting a Roadmap for a Feminist Green Transformation: Using Economic, Social, Cultural and Environmental Rights as Guiding Tools for a Gender-Just Transition*](#) (2022).
- [*Towards a Gender-Just Transition: A Human Rights Approach to Women's Participation in the Energy Transition*](#) (2021).
- [*Renewable Energy and Gender Justice – Briefing Paper*](#) (2020).

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