

## **Written contributions to the draft General Comment on Economic, Social and Cultural Rights and the Environmental Dimension of Sustainable Development**

The Global Initiative for Economic, Social, and Cultural Rights (GI-ESCR) thanks the opportunity to provide a written contribution to inform the development of the draft General Comment on Economic, Social, and Cultural Rights and the Environmental Dimension of Sustainable Development issued by the UN Committee on Economic, Social and Cultural Rights (hereinafter, “CESCR” or “the Committee”).

We congratulate the CESCR on developing this legal reference tool that contributes to ensuring the progressive realisation of the rights contained in the International Covenant on Economic, Social and Cultural Rights (hereinafter, “ICESCR” or “the Covenant”) as means to provide conditions of wellbeing for all within the boundaries of the planet. This pressing question should be central to implementing the treaty and advancing policies that can tackle the intersecting inequalities and planetary crises at the root of persistent human rights abuses across the world.

In this context, this submission will explore the importance of incorporating a framework on just transition that envisions the transformation of societies and economies towards sustainability and the importance of recognising a right to sustainable energy that is indispensable for the realisation of several rights contained in the Covenant, including the rights to an adequate living standard, healthy environment, work, health, water, and sanitation.

Against this background, the submission will cover the following issues:

- The just transition framework
- The right to sustainable energy

### **The Just Transition Framework**

In their search for such an eco-social agenda, several stakeholders and social movements have considered the concept of ‘just transition’.<sup>1</sup> Born in the labour movement during the 1970s, the notion of just transition was coined by trade unions and workers in the fossil fuel industry, who were concerned about the damage that phasing out fossil fuels could have on their jobs and livelihoods.<sup>2</sup> In recent years, the idea has gained traction among a wide range of stakeholders and has been referenced in key climate change fora and policy instruments, including in the preamble of the Paris Agreement.<sup>3</sup> Over time, the concept has evolved beyond workers’ rights to encompass a

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<sup>1</sup> See for instance the ‘just transition’ concept developed by the Climate Justice Alliance, last accessed 6 January 2025, available at: <https://climatejusticealliance.org/just-transition/>.

<sup>2</sup> Just Transition Collaborative (2018), ‘Mapping Just Transition(s) to a Low Carbon World’, UNRISD, Rosa Luxemburg Stiftung, University of London Institute in Paris, ISBN: 92-9085-101-5.

<sup>3</sup> The Paris Agreement was adopted by 196 Parties at CoP21 in Paris on 12 December 2015. It entered into force on 4 November 2016.

broad set of rights and other social and environmental justice concerns that will be affected by transition policies. As such, ‘just transition’ offers a promising framework for policy innovation, which could generate eco-social approaches that address interlinked causes of unsustainability and inequality. It provides a framework to ensure the full and progressive realisation of economic, social and cultural rights centring the imperative of protecting the natural environment and remaining within planetary boundaries.

In this light, we suggest incorporating this concept of just transition in the introduction, specifically in paragraph 6 of the General Comment, to place the needs of the most marginalised at the heart of environmental policy, as well as to highlight that effective environmental action should prevent replicating inequalities or other human rights abuses.

*“6. Realizing Covenant rights in the context of the planetary environmental crises requires further clarification of the obligations of States parties, including the general obligations in article 2 (1) of the Covenant. The fact that humanity is approaching the environmental limits of the planet influences the policies, options and measures required to implement all economic, social and cultural rights in the context of a human rights economy. This presupposes an overhaul of the international financial architecture, guided by the values and protections set out in international human rights law. A key challenge is how to ensure the progressive and full realization of Covenant rights now and in the future without exacerbating the environmental threats to the enjoyment of those rights. **Furthermore, it is imperative that environmental policy avoids replicating inequalities and contributes to the realization of Covenant rights by ensuring a just transition towards a green economy centred on the needs of the most marginalised.**”*

This addition would complement and further expand the reference to just transition included in paragraph 49, which tackles the impacts that phasing out fossil fuels and other polluting activities may imply for workers still dependent on these industries.

### **The Right to Sustainable Energy**

Energy is the backbone of all productive activities and an indispensable condition to social and economic well-being. Energy systems are not only essential to power industries, food production, employment, and public services, such as education, health, water, and sanitation, but also to ensure access to information, communication, and digital technologies. In this context, where energy is increasingly becoming a critical resource to ensure basic conditions of a life in dignity and the realisation of rights, the

lack of energy or restricted access to this service is identified as a cause and consequence of multiple forms of poverty and marginalisation.

Energy is also necessary for achieving economic prosperity; countries without access to energy have restricted opportunities to develop critical economic activities. A study conducted in Brazil, for example, showed that electricity can be a decisive factor in children's learning outcomes.<sup>4</sup> Evidence also demonstrates that households lacking adequate access to energy significantly increase the time and effort required to perform unpaid care and domestic work, which contributes to gender inequality.<sup>5</sup> Inefficient, unsafe, and unsustainable energy hinders the possibility of providing adequate standards of living generally, as well as realising a number of other economic, social, cultural, and environmental rights.

In addition, the escalating climate emergency has made it imperative to rapidly shift from fossil fuel-based energy systems to clean, renewable, and efficient energy technologies. This implies wide-ranging measures to mobilise resources and a profound transformation of energy consumption and production patterns across all sectors of the economy. From the outset, authorities must provide adequate information, access to meaningful and effective means of participation, and the possibility to redress human rights violations produced in this context as indispensable conditions to move forward with transforming global energy systems.

Against this backdrop, the provision of sustainable energy arises as a fundamental human right. Issues such as how energy is produced, for which purposes, who bears the costs and who benefits by its production and distribution must be addressed from a human rights perspective as a key condition to achieve sustainable development. This is a fundamental issue that conditions the progressive and full realisation of Covenant rights as well as all efforts to protect the natural environment.

Considering the relevance of energy in all possibilities to ensure adequate socio-economic living standards and a clean, healthy and sustainable environment, there are legal instruments that with different formulations and associated entitlements have recognised the human right to energy.

At the international level, the International Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), in its article 14 enshrines the rights of rural women, which includes their right to enjoy adequate living conditions concerning access to *electricity*. In General Recommendation No. 34, the CEDAW Committee goes further to recognise that beyond electricity, women may have other energy needs, for example,

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<sup>4</sup> Novaes Mejdalani, Alexandre et.al. Light for Rural Education: More Energy to Reduce School Dropout, InterAmerican Development Bank, 2019, last accessed 6 January 2025, available at: <https://blogs.iadb.org/energia/en/light-for-rural-education-energy-to-reduce-school-dropout/>

<sup>5</sup> European Economic and Social Committee, Energy Poverty: Women More Likely to be Affected than Men, last accessed 6 January 2025, available at: <https://www.eesc.europa.eu/en/news-media/news/energypoverty-women-more-likely-be-affected-men>.

for cooking, heating, lighting and transport.<sup>6</sup> It also highlighted that women are likely to be more directly affected by energy cost increases or energy resource scarcity, underscoring the several differentiated gender impacts of energy poverty.<sup>7</sup> The Committee, in this sense, clarified that States have an obligation to provide access to essential public services and goods, which include “sustainable and renewable sources of energy, extending on-grid services to rural areas and developing solar energy and other sustainable energy sources with low-cost technology.”

An additional basis for this right can be found in Article 11 of the ICESCR on the right to an adequate standard of living through an extended interpretation of the set of rights therein contained. This article does not explicitly mention “energy” or “electricity”, but the proposition that it does, in fact, incorporate this right can be supported by the numerous pronouncements of the Committee listing energy among several other public services that are essential for the realisation of rights. The CESCR has, for instance, recommended that countries adopt effective measures to ensure all households meet their basic electricity needs<sup>8</sup> and to expand the coverage for beneficiaries of social tariffs by mobilising more resources for the provisioning of energy services.<sup>9</sup> Moreover, CESCR’s General Comment No. 4 enlist access to energy among the facilities and services that adequate housing must contain to be in line with the Covenant.<sup>10</sup>

Concerning the participation of private actors, the Committee recognised in its General Comment No. 24 that private providers should be subject to strict regulations that impose on them so-called “public service obligations”. Thus, the provision of water or electricity may include requirements concerning the universality of coverage and continuity of service, pricing policies, quality requirements, and user participation.<sup>11</sup> Other human rights mechanisms have recognised the provision of electricity as being necessary for the protection of the right to life<sup>12</sup>, the right to benefit from scientific progress<sup>13</sup>, and as an underlying determinant of the right to health.<sup>14</sup>

These pronouncements at the international level are evidence that the international recognition of a potential right to energy is moving forward despite its different formulations or the manner in which they have been recognised through treaties, laws, or case law. Most importantly, this right is considered to be broad in scope and not only related to the right to housing, as it has been reflected in paragraph 67 of the draft general comment. In this sense, we suggest including new language recognising the right to

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<sup>6</sup> CEDAW, General Recommendation No. 34 on the rights of rural women, CEDAW/C/GC/34, 2016, paras. 54 (d), 61, 84 and 85 (c).

<sup>7</sup> Ibid.

<sup>8</sup> CESCR, Concluding observations on the sixth periodic report of Germany, E/C.12/DEU/CO/6.

<sup>9</sup> CESCR, Concluding observations on the fifth periodic report of Belgium, E/C.12/BEL/CO/5.

<sup>10</sup> CESCR, General Comment No. 4 on the right to adequate housing, para. 8 (b).

<sup>11</sup> CESCR, General Comment No. 24 on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, E/C.12/GC/24.

<sup>12</sup> CCPR, General Comment No. 6 on the right to life, CCPR/C/GC/36.

<sup>13</sup> CESCR, Concluding observations on the initial and second periodic reports of Djibouti, E/C.12/DJI/CO/1-2.

<sup>14</sup> UN Special Rapporteurs on Extreme Poverty and Human Rights and on adequate housing as a component of the right to an adequate standard of living, Communication to Nigeria, NGA 5/2013, last accessed on 6 January 2025, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=21073>.

sustainable energy as an independent right derived from the right to an adequate living standard:

*“An adequate standard of living encompasses the enjoyment of the right to sustainable energy. States must provide accessible, adequate, available, sustainable, and good quality energy services without discrimination for all. This should be achieved through a circular economy approach that prioritises material reuse, promotes environmentally safe end-of-use processes of energy technologies, and contribute to reduce energy consumption and production.”*

This has important implications for the standards that energy delivery should comply with, its priorities, and who has the power to shape its outcomes. This important shift alone can allow for new understandings of energy as a public service and good that should foster measures to ensure it is delivered for all, sustainably, and according to standards of quality that are vital for societies to flourish within planetary boundaries.

We thank the CESCR for the opportunity to provide these inputs to the draft General Comment and maintain our commitment to support the mandate of the Committee in clarifying States’ obligations in the context of sustainable development.

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